

SOME OUTSTANDING EVENTS AT THE HAVANA CONFERENCE OF THE INTER-AMERICAN BAR ASSOCIATION.*

The tremendous interest of lawyers in giving effect promptly to the purposes of the Inter-American Bar Association, whose Constitution was signed in Washington on May 16, 1940, was manifested in no uncertain terms when over six hundred delegates, observers and guests registered at Havana for the First Conference of the new Association beginning on March 24, 1941. During the ten months since it was organized membership in the Association has grown from 25 associations in 12 countries to 45 associations in 15 countries and ratifications have been received from nearly all of the associations whose representatives had previously signed *ad referendum*. It was, accordingly, in an atmosphere of enthusiasm and excitement that the first session opened at Havana on the morning of March 24, with the Vice-President of Cuba presiding. After the roll call of the 45 member associations showing by representatives present that the Association was spread from northernmost Canada to southernmost Chile and Argentina, addresses of welcome were delivered by Jose Manuel Cortina, Secretary of State of Cuba, and Natalio Chediak of the Havana Bar Association, which brought forth many expressions of applause from the audience that filled the floor and galleries of the House of Representatives. In my response on behalf of the visiting delegates, I expressed the contrast between the arrival of Columbus at Nuevitas, Cuba, in 1492 with the arrival of the delegates for this Conference by steamship and airplane and made the following comments on the significance of the Conference :

In view of the great dangers that openly threaten the democracies throughout this continent, there is an unusual demand for united action for the preservation of our democratic institutions. Although military force is important for the accomplishment of this purpose, our principal function is found in the improvement of our laws and the development of our legal institutions, so that the freedom of the individual may not be jeopardized. The four principal freedoms which have been recognized as fundamental and essential

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throughout the world are: (1) freedom of speech, (2) freedom of religion, (3) freedom of the press, and (4) freedom of individual enterprise. By means of written constitutions we have specific guarantees which may be asserted in the courts to assure the enjoyment of these rights. There are great possibilities for this organization to remove legal obstacles to the exercise of the right of the free people in this hemisphere to carry on their trade and commerce. An exchange of legal publications as well as studies in our educational institutions will aid in the accomplishment of these aims. There is the fundamental possibility that aside from these ideals of cooperation our association may not only secure greater understanding of each other's laws and legislation but a greater unity may be evolved in the legal systems.

Permit me to emphasize that the solution of our legal problems can be accomplished through joint cooperative action rather than through force or domination. Treaties in force between the countries of the Americas constitute international legislation regulating their relations with one another. There are approximately 75 such treaties dealing with virtually every phase of inter-American relations such as peaceful settlement of disputes, provisions for solving economic and commercial problems and for promoting cultural, educational and scientific cooperation, the regulation of means of communication, including aviation, radio, shipping and highway transportation, sanitary measures for the prevention of the spread of disease, and many other provisions. This cooperation between our nations is not a temporary sporadic effort but it represents a constant and continuous interest of the governments which is reflected in the creation of a permanent organization, namely, the Pan American Union, and in the periodic character of their meetings.

We look back upon the history of bar associations and realize the profound influence they have exerted upon the development of national institutions. This conference is an evidence of the realization on the part of the lawyers of the Americas that our common legal and political institutions are threatened by dissolvent doctrines and aggression from systems that are alien to them, and that they need to confer and arrange for concerted action in defense of the principles of democracy.

President Manuel Fernandez Supervielle, in his Presidential address, sounded the keynote of the meeting when he made the following statement :

The work of the Association in this respect may also be guided toward the unification of the provisions of law that regulate a large number of specific questions that do not raise great difficulties and which would lead to very important advantages of different kinds.

Thus, for instance, the uniformity of the law on the subject of negotiable instruments (principally the bill of exchange and the check); of commercial associations (corporations and partnerships) and taxes on transmission of property by inheritance (in order to prevent double taxation); and in connection with the protection of commercial trade marks, factory brands, patents of invention and copyrights; the

condemnation of property for causes of social utility; the requisites for powers of attorney for law suits; the collecting of commercial credits; the execution of judgments handed down by foreign courts; the proof of foreign law in law suits; while this would facilitate the realization of the juridical purpose and the judicial function, it would also tend to increment economic relations between the different countries facilitating the investment of capital, placing these in the necessary direction, and would invigorate international commercial credit.

During the session that followed on Monday afternoon, Dr. Enrique Gil, a delegate from Argentina, contributed a strong note of solidarity to the Conference when he stressed the desire of Argentine lawyers to help in every way to advance the purposes of the new Association. As evidence of his desire to make the Association a practical force for improvement in the administration of law and justice in this hemisphere, he proposed the adoption of several resolutions, one of which dealt with the improvement of the standing of the profession by the adoption of the Code of Ethics of the American Bar Association by all of the member associations. The Fifth Resolution of the Conference resulted from his recommendations and reads as follows :

The First Conference of the Inter-American Bar Association resolves :

First: To recommend to member bar associations and, where no bar association exists, the judicial authorities of the respective country, to create law libraries for the use of those persons entrusted with the administration of justice and for the use of the legal profession.

Second: To encourage the establishment, within the law schools of each country, of courses on legal ethics.

Third: To express the hope that the law schools of the Americas shall prescribe, as a condition of entry and as a requisite for a law degree or of a doctorate in jurisprudence, the satisfaction of high moral standard.

Fourth: The Executive Committee shall encourage discussion among bar associations of America on the subject of the formulation of a code of professional ethics, the results of which shall be submitted to the Association at the next conference.

Col. Wm. C. Rigby as chairman of the Organizing Committee reported in part as follows :

In line with the precedent set by the Argentine Federation in its meetings with the associations of Brazil, Chile and Peru, and in accordance with the recommendations of the American Bar Association's Committee in 1934, our constitution creates a "delegated association" composed of representatives of its member associations, instead of having individual members. That Committee said on this point in its 1934 report :

"By this means alone could the affiliation become truly comprehensive and typical of the respective Bars. Experience in other professional fields makes this so plain that it needs no argument."

The formal purposes of the Association are stated in Article I of its constitution. In addition an underlying purpose,—perhaps, in these times of stress, its most important immediate purpose,—is the cultivation of mutual acquaintance and of friendship among the lawyers of our different countries, and through them, the advancement of the spirit of good neighborliness among the peoples of the Americas.

The great interest in defense problems throughout the Americas was manifested by the large number of papers that were filed, 13 in all, on the topic, "The Role of the Lawyer in the Defense of the Americas." The Organizing Committee realized that this was one of the most important and vital topics and devoted the whole morning session to the presentation of papers by President Jacob M. Lashly of the American Bar Association, Dr. Cosme de la Torriente, former Secretary of State of Cuba, a report by Colonel Edmund Ruffin Beckwith, chairman of the A. B. A.'s Committee on National Defense (which was read by James W. Ryan of New York), and papers by Luis Anderson, delegate of Costa Rica, Dantes Bellegarde of Haiti, Miguel Angel Campa of Cuba, and Natalio Chediak of Cuba. In his address, Mr. Lashly said :

Law is a fundamental and stragetic element of active, highly developed and progressive society which exists in the Western Hemisphere. Law accompanies the business man to his desk, the statesman to his assembly, the worker to his bench, the banker to his vaults, even the doctor to his patient, the musician to his platform and the priest to his altar. Every phase of life is affected, either visibly or invisibly, to a greater or less degree, by the regulations of society; and these regulations are law, whether enacted or traditional.

Society and civilization are on the move; they do not stand still even for a single instant. Law must and does move with them. Whether by case or code, it reaches out and seeks to find new devices, new tools and new ways to aid civilization in its progress and to meet the changing demands and needs of a constantly modernizing society.

CIVIL LAW AND COMMON LAW COMPARED

As increasing business, and the more intimate cultural and social relationships among us improve and grow, it becomes the task of the law to assist this development by finding new forms and new methods to carry out the desires of men within the fundamental canons of public order and fair play. The growth of the law is a source of intense interest to those of us gathered here because, as it occurs, we can see at close range the two great legal systems of the world, the Civil Law and the Common Law, each striving to adjust itself to a meeting with the other. Here Las Siete Partidas of the Latin

Republics reach across the channel of the centuries to clasp the hand of Magna Carta and to embrace the living organism which is the body of the Common Law of the North American countries. There is no difference in the ultimate aims and goals of the two systems of jurisprudence. Their common objectives are justice and order, and life made reasonably secure, happy and free.

The Civil Law represents the composite desires of Society, gathered together by direct process into a code or structure of laws, compliance with which would accomplish the common will. On the other hand, the Common Law is built more indirectly—upon relationships: the duties and obligations which naturally flow from the positions which people have assumed with regard to each other. The body of the law emerges from judicial determinations of the rights and duties which spring from these relationships. It is inevitable that the gradual interpretations by the courts of statutes, codes or rules promulgated by governmental agencies should erect upon the Civil Law additions which in their nature are made to conform to the patterns of the Common Law. Upon the other hand it is the practice of the North American countries and states to assemble judicial expressions from a multitude of experiences of litigants into codes, statutes, and rules, and thus codify the body of the common law.

Dantes Bellegarde of Haiti stressed the significance of the presence of representatives of the Canadian Bar Association at this, their first Pan American meeting. He discussed the importance of the economic defense of the Americas and stated his conclusions as follows :

Since long ago, the *need* for an organization of Inter-Americans has been recognized. Today this problem has become *urgent*. The consequences of the present war which are affecting the countries of this hemisphere no longer permit of any delay in the solution of this matter.

Public opinion, which is not always up to the standard of international evolution, has shown itself often restive when it became necessary to give body to the resolutions and votes adopted by the various Pan American congresses for the encouragement and the development of a political, cultural, and commercial entente between the American countries.

The republic is beginning to understand the necessity for this entente in the face of the repercussions from the present conflict on the material life of our peoples.

The men of the law who are members of the great Pan American Federation of the Bar, will be the *lawyers* of Pan Americanism. They will plead this beautiful cause before the bar of public opinion.

They will win happiness and prosperity for the American nations united in peace, justice and liberty.

As a result of the discussion of this subject, the following resolution (No. I) was adopted :

The First Conference of the Inter-American Bar Association declares :

First: Its unreserved devotion to the democratic principles on which the American Republics were founded.

Second: Its desire for the strengthening of the cordial relations existing between the countries of America.

Third: Its allegiance to the principles of international law and the precepts of international conduct set forth in the treaties and resolutions approved by the International Conference of American States.

Fourth: Its determination to cooperate effectively in the defense of the foregoing principles and precepts."

The session on Tuesday afternoon was devoted to addresses by Judge Herbert F. Goodrich and Dr. William Draper Lewis on the work of the American Law Institute in compiling the Restatement of the Law of the United States and by Dr. Antonio S. de Bustamante, who prepared a monumental code of private international law that has been incorporated into the laws of many of the Pan American countries. Dr. Lewis presented his proposal for the translation of the Restatement into Spanish in order that Latin American lawyers might more easily become acquainted with American law.

As a result of these discussions Resolution XVII dealing with this subject was adopted. It reads as follows :

The First Conference of the Inter-American Bar Association resolves :

First: To endorse the resolution approved by the Eighth American Scientific Conference, in May, 1940, recommending the translation, into the other languages of the American Republics, of the Restatement of the Law of the United States of America formulated by the American Law Institute.

Second: To recommend that the translation contain, in addition to copious explanatory footnotes, brief historical and analytical introductions on the origin and nature of the corresponding Latin American and Anglo-American legal concepts, principles and institutions.

Third: To express the opinion that the result of this work should greatly advance and facilitate the successful completion of the important tasks relative to the unification of commercial and civil law and uniformity and unification of legislation entrusted to official agencies by the International Conference of American States.

Fourth: To recommend that once the volume relative to Conflict of Laws of the American Law Institute has been translated, official and private legal agencies and organizations cooperate in a detailed comparative study thereof with the Bustamante Code of Private International Law, for the purpose of examining the extent to which the two systems may be reconciled.

Important round tables, including those postponed from the preceding day as well as those scheduled on the program, were held on Tuesday afternoon. An address was delivered by Dr. Albert E. Reitzel of the United States Department of Justice on the subject "Recent Developments Relating to the Admission, Residence, and Expulsion of Aliens and Change of Nationality Under the Law of the United States of America." **As a result of his address and others on this subject, the Conference adopted Resolution No. VIII reading as follows :**

The First Conference of the Inter-American Bar Association resolves :

To request the Executive Committee of the Association to study the Immigration, Naturalization and Citizenship Laws of the countries of the Western Hemisphere with a view to assembling and disseminating information pertaining thereto, and to make recommendations for resolving differences and harmonizing these laws, with necessary broadness and opportune flexibility, in order to achieve the greatest uniformity possible.

A round table under the chairmanship of Mr. Harry S. Knight, Secretary of the American Bar Association, dealt with the subject of "Administrative Law and Procedure" and resulted in the adoption by the Conference of a Resolution No. XI reading as follows :

The First Conference of the Inter-American Bar Association resolves :

To establish a system of exchange of information on administrative procedures in the various countries of America.

At another round table, under the chairmanship of Dr. Edmundo Miranda Jordao, President of the Brazilian Bar Association, a paper was read by Dr. Hessel E. Yntema of the University of Michigan on the subject, "Comparative Legal Research and Unification of Laws." Judge Otto Schoenrich also presented an important paper on the subject "Comparative Law and Pan American Solidarity." And a paper prepared by Dr. R. G. Patton of Minneapolis, dealt with the subject "The Land Title Records of Canada and the United States." As a result of these papers and others on subjects indicated, the Conference adopted three resolutions, reading as follows :

VI

Proposed by Dr. Ricardo J. Alfaro

The First Conference of the Inter-American Bar Association declares :

That it recognizes the advisability and feasibility of incorporating 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 enactment 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 Brazilian Delegate reserved his vote, wishing to make a study of the matter.

IX

The First Conference of the Inter-American Bar Association resolves :

To entrust to a technical committee a general comparative study of legal documentation in the countries of America relative to the civil status of persons, and concerning other relevant questions, in order to obtain inter-American unification of legislation in this matter.

XXI

The First Conference of the Inter-American Bar Association recommends :

First: That the Executive Committee study the proposals made to the Conference relative to the creation of an "American Institute of Comparative Constitutional Law," of a "Pan American Institute of Comparative Law," and of an "Inter-American Office for the Unification of Penal Legislation."

Second: That the said Committee present its recommendations thereon to the next Conference of the Association.

Another round table, presided over by Dr. Dantes Bellegarde of Haiti dealt with the subject of "Customs Legislation and Commercial Agreements." Papers were read at this table by Dr. William E. Masterson of Temple University entitled "Customs Restrictions in the Countries of the Western Hemisphere," by Dr. Lawrence D. Egbert entitled "Latin American Commercial Treaties," and by Charles E. Jackson of the Bureau of Fisheries and Wildlife entitled "The Problems of Conserving Fishes That Migrate Across International and Interstate Borders." Dr. Egbert introduced a Handbook of Latin American Commercial Treaties, which he had recently prepared for the United States Tariff Commission (copies of which are now available to persons desiring them). He pointed out some of the problems encountered in the commercial treaty field and proposed suggestions for their solution. His paper concluded with a resolution, adopted by the Association, which is Resolution No. XIII reading as follows :

XIII

The First Conference of the Inter-American Bar Association resolves :

To request the Executive Committee to study the desirability of organizing a section of customs laws and commercial treaties of the Association.

A further round table under the chairmanship of Dr. J. Blanco Uzstariz of Venezuela, dealt with the subject of "Communications: Including Air Law, Telecommunications, Maritime and Highway Transportation." An interesting paper was read at this round table by Howard S. LeRoy on the subject of "Trends of International Aeronautical Law" and by Dr. Antonio S. de Bustamante on "The Constitution of International Committees on Aviation." As a result the following resolution, No. III, was adopted :

The First Conference of the Inter-American Bar Association resolves :

First: That the President of this Conference officially request, in the name of the Association, all the governments of America to organize immediately the National Commission of Aviation recommended by the First Pan American Conference of Aviation at Lima in 1937.

Second: That he also request the said governments to arrange to have their national committees collaborate with the National Societies known as the Inter-American Aviation Squadrons.

Third: That he communicate this resolution to the Pan American Union with a request that it urge the national committees to undertake the work assigned to them, and that the permanent Pan American Aeronautical Commission be organized as soon as possible.

Fourth: That he undertake all the measures of publicity that he may consider necessary and desirable for the achievement of the foregoing objectives, and that he report on the result thereof to the Second Conference of the Inter-American Bar Association.

At the session on Wednesday morning, Frederic R. Coudert of New York spoke on the subject of Comparative Constitutional Law. He referred to the historic fact that the constitutions of the Pan American countries are based in large part on that of the United States. He emphasized the division of powers between the legislative, executive and judicial branches of the government and paid tribute to the important part taken by the judiciary in prescribing the limitations on the various branches of the government. The preservation of the rights of the individual through the Bill of Rights was praised and the inconsistency of its provisions with the totalitarian system of government was clearly portrayed.

Dr. Alberto Ulloa, a former Minister of Foreign Affairs of Peru and at present a professor of law at the University of San Marcos, presented an interesting paper on the subject of "Observations on the Present Condition of the Law." This session was followed by a round table on "Inter-American Legal Documentation" at which Dr. John T. Vance presided. Several important resolutions emerged from this round table which were adopted by the Conference including: one, a recommendation for the establishment of a journal; two, the establishment of a legal center in each nation for a collection of books on the laws of the various countries; three, the compilation of legal bibliographies; and, four, uniformity in the material and standardization in the production of law books.

Mr. George Maurice Morris also conducted a round table at which important resolutions favoring measures for the prevention of international double taxation were adopted on motion of Mitchell B. Carroll. The taxation of public utilities was discussed by Edwin D. Ford.

Another round table dealt with the "Protection of Intellectual and Industrial Property" under the Presidency of Dr. Camilo de Brigard Silva of Colombia. Inter-American copyright and patent protection was stressed in two resolutions which were approved by this round table.

One of the most significant addresses delivered at the Conference was that delivered by President D. L. McCarthy of the Canadian Bar Association on Wednesday afternoon. Mr. McCarthy as President of the Canadian Bar Association has an unusual opportunity to study the procedure whereby Canada has coordinated the development of the common law in the Province of Ontario and other Canadian provinces with that of the civil law in the French-speaking province of Quebec, which was represented by Senator Moraud.

Round table discussion on Wednesday afternoon included that on legal education led by James Oliver Murdock and resulted in important resolutions, one of which provided for the establishment of an academy of comparative and international law at Havana. Another round table presided over by Judge Laurance D. Hyde dealt with the judicial power and judicial administration as well as legal aid.

Prior to the final session of the Conference on Thursday morning, two round tables were conducted, one of them by Hon. Wm. S. Culbertson, dealing with industrial, economic and social legislation and the other by Dr. Jose Augustin

Martinez of Cuba on criminology, penal law, procedure and administration. Among the important papers presented at the first of these round tables was that of William E. Reese on Comparative Wage and Hour Legislation applicable to Public Work.

The first annual banquet of the Inter-American Bar Association held on Wednesday evening, March 26, 1941, in the ballroom of the Hotel Nacional was attended by over 400 delegates and their guests. The principal address was given by Dr. Victor Lascano, Argentine Minister of Cuba, who stressed the interest of lawyers in Argentina in the new Association and was warmly applauded when he said he hoped the Second Conference would be held in Buenos Aires. Brief addresses were made by a number of delegates expressing the sentiments of their associations.

Mrs. Elizabeth M. Cox, President of the Women's Bar Association of the District of Columbia, expressed the interest of women lawyers as follows :

The words, good neighbors, friendship and peace are associated with women as women the world over. The women of the Americas have long nurtured the thought that these ideas should be applied to the countries of this hemisphere. As early as 1927, the Inter-American Commission of Women, which by the way had its beginning here in Havana, was conducting a comparative study of the laws affecting women in the twenty-one Latin American republics. The result of that research has been compiled and published and is available to all who may be interested in this field.

For some years women as members of the International and Comparative Law Section of the American Bar Association have fondled the ideal of an Inter-American Bar Association. Now in 1941, that ideal having been realized, women, as lawyers, have come from the far places of this hemisphere to participate in the deliberations of this conference. These same phrases, good neighbors, friendship and peace, are interwoven in the purposes of this gathering. More than fifty women lawyers are here taking part (applause), contributing their bit, devoting their time and energy to what they believe is one means of perfecting and making effective our democratic way of life. May the friendships and understanding gained as the result of the gracious hospitality of our good neighbors of the Havana Bar increase and spread throughout the nations and bring us peace.

William Eugene Stanley, of Wichita, President of the Kansas State Bar Association, spoke in part as follows :

This morning I stood before the Maine monument out here upon the boulevard, gazing across the waters at Morro Castle, that symbol of the past of force and oppression, and I lifted up my eyes to that monument and saw that inscription, 'Resolved by the Congress of

the United States that the people of Cuba are and have a right to be free and independent.' And then as I stood there, thinking of the crumbling of that castle, I realized what freedom and independence had builded here in Cuba.

... the people of the Western Hemisphere, wherever they might be, are and have a right to be free and independent; and that is the common aspiration and the common ideal of all of the peoples of the Americas. That is why we are here. As Dr. Wenceslao Troncoso (delegate of the Dominican Republic) said so ably, as the members of the Bar are the technicians in the judicial process, then it is for us, the lawyers of the Western Hemisphere, to forge the chains that will bind us together through rules of action that will govern our relations one with another in a friendly and a happy way that will take us on the road to peace.

And so with this gathering I see a new star rising, where the lawyers, coming from their own countries where they have been engaged in trying to write the doctrine of law and order, have come together to write it on the pages of the nations of the Western Hemisphere where law and order, established among the people of the Western Hemisphere, will help to realize the common aspirations of all of us and maintain against the onslaughts of others peace and security for each man, woman and child in this western world.

Of particular significance was the address of Harry S. Knight of Sunbury, Pennsylvania, Secretary of the American Bar Association, who said :

Out of this conference, to me, and I am sure to the 32,000 lawyers whom I here represent tonight, there is something more developing than just the mere papers that we have heard read and the discussions to which we have listened. During the past five days there have gathered here in your city men from all of the Americas who are the molders and the leaders of thought in their various communities; and with this we have learned to know you better, and you have learned to know us. We have realized, and we trust you, too, have realized, that we have the same objects, the same ideals, the same social proclivities, that you in the Southland have with us in the Northland; and with that understanding, we believe we are closer together than ever before. Men and women who understand each other seldom permit their differences to develop into bitter controversies. Understanding always elicits and commands respect, and while we may differ in our views, we differ, when we understand each other, with a respect and a regard and a reverence for the views of each other.

To me that is what this conference has done, and that is what these conferences and meetings can and will do in the future. It is of little import whether the law in the United States is identical with the law in Venezuela or the Argentine or Colombia, but it is of importance that on the outside we are thinking alike and understanding each other.

Fred B. Gernerd, of Allentown, President-Elect of the Pennsylvania Bar Association, said :

... We have all seen our hopes come true in this great interesting and historic conference. While you lawyers from the South have been imbued with the Justinian law, we of the North have been taught the common law of Blackstone, but after all, the fundamentals are alike. We enjoy the same common aspirations; we are one, our family ties are the same, we worship the same God, we have the same ideals. . . .

It has been the lawyer in times past, in every great crisis in the human family, that has held the torch aloft whenever human liberty was in jeopardy. So when we see a few specters on the clouds, we dare not permit those specters to become spots of darkness. We are resolved to stand together. We have been taught the same principle, which is an enduring principle, at our mother's knee: Love thy neighbor as thyself. That is the only principle that should endure and be a lasting inspiration for the lawyers of the North and the South. I pledge to you all the heartiest cooperation and understanding, and the assurance of our love and affection, and assure you that we will cooperate in seeing this great undertaking brought to fruition, clustered together in one great keystone.

The loyal support of the Missouri Bar Association, the first State Bar Association to become a member, was pledged by its President, Frank C. Mann of Springfield, Missouri, who stated :

... Our interest in this Association is entirely altruistic. We were motivated solely by the fact that our members as representatives of the citizens of our state and nation had an earnest desire to contribute in every way we might in the fostering and development of a true spirit of good will among all the peoples of this hemisphere; . . .

Another significant address was made by Heber H. Rice, President of the Federal Bar Association, who stated that "this week marks a milestone in the progress of the lawyer of the Western Hemisphere" and expressed the opinion that "never before has such a mighty step been taken by a professional group." He predicted that the lawyers assembled there would "advance the science of jurisprudence among the Americas and bind closer the ties of inter-American legal, social and business cooperation in a great union of thinking people."

The address that was most applauded was that of Francis W. Hill, Jr., President of the Bar Association of the District of Columbia. His address reads in part as follows :

It is a real pleasure to have the privilege of attending the first conference of the Inter-American Bar Association, and to look upon this group of learned and distinguished men, and lovely, charming and beautiful women. And to think of the purposes and the moral

aspects of this conference is inspiring. It brings to my mind a picture of years long ago, in the days of the sailing vessels. Out upon the ocean you would see one sailing vessel going north, one south, one east, one west. It is not the wind that determines the course of the ship. It is the set of the sails that determines the course of the ship.

When we think of the cloud that hangs over the Eastern Hemisphere, we, representing the countries of the Western Hemisphere, should now dedicate ourselves to setting the sails of our ship of state to the end that it will avoid the whirlpool, the rocks and the shoals, and come safely into a harbor peaceful and tranquil.

That is my aspiration. . . . I assure you that I have had a grand time in Havana, that the people of Havana have not only lived up to their reputation for kindness and cordiality, but have even surpassed that reputation.

In behalf of the Bar Association of the District of Columbia, I thank you from the bottom of my heart for your kindness and your hospitality, and I wish to extend to you a cordial and a sincere invitation to come to visit us in the very near future.

In my remarks on behalf of the officers I said:

. . . If you could have stood with some of us in Washington nine months ago when this Constitution of the Inter-American Bar Association was signed, I think few of you would have envisioned the meeting here tonight.

. . . It has been said that to the minister belongs the work of teaching, to the physician the work of healing, but to the lawyer falls the task of order and government. That certainly is realized by the group gathered here tonight. We all, particularly those who are in the Government service, . . . realize that government does not function by chance, that a great deal of sweat and blood go into the function of organizing and carrying on a successful government; and we also realize that governments do not get along in friendly relations with one another if difficulties are allowed to grow and spread. It is, therefore, my hope that all of the lawyers gathered here tonight, who are the leaders of thought in their communities, will feel a sense of responsibility for the future course of events in this hemisphere as they go back to their respective homes, and will help in putting into operation and effect the resolutions which are adopted at this meeting.

The final plenary session was held on March 27, 1941, in the Hall of Representatives at the Capitol and was opened with an address¹ of Honorable Robert H. Jackson, Attorney General of the United States, dealing with international law in this Hemisphere read in the unavoidable absence of Mr. Jackson by the American Ambassador to Cuba, George S. Messersmith.

¹For full text of Mr. Jackson's address see A. B. A. Journal, May, 1941. Vol. 27, pp. 275-279. Am. Journal Int. Law, April, 1941, Vol. 35, pp. 348-359; (1941) 19 Can. Bar Rev. 229.

The following extracts from Mr. Jackson's address are of particular significance :

Every delegate comes to this council with pride in his own national institution and tradition. No one comes to capitulate to any other. Each of our pioneering peoples of this hemisphere has looked to one or another of the old world civilizations to fertilize its intellectual life. Since communion with Europe has been interrupted we have turned to each other for cultural enrichment. We are rediscovering the Americas. . . .

The easy and fraternal terms on which our profession meets, serve to emphasize the discord of the world and above vexing national problems rise grave questions of law relating to our international well being.

We are haunted by the greatest unfinished task of civilization which is to create a just and peaceful international order. If such a relationship between states is to be realized, we know its foundations will be laid in law, because legal process is the only practical alternative to force.

The state of international law and of progressive juridical thought on the problems of states not actually participating in hostilities is of more than academic interest in a world at war. The United States feels obliged to make far-reaching decisions of policy. I want the legal profession of this hemisphere to know that they are being made in the conviction that the structure of international law, however apparently shaken, is one of the most valuable assets of our civilization. There may be differences of opinion as to some of its particular rules, but we have made conscientious effort to square our national policy with enlightened concepts of the law of nations viewed in its entirety.

After discussing the question of whether the aid already given and to be given to Britain under the Lease-Lend Act constituted an act of war, he discussed numerous authorities on the law of neutrality and concluded with the following significant statements :

. . . The present implementation of the principle of self-defense did not start with the Lend-Lease Bill in the United States. It began at the Panama Consultation in 1939 and was developed in relation to the law of neutrality by the Inter-American Neutrality Committee at Rio de Janeiro, as endorsed by the Consultation of Foreign Ministers here at Havana in 1940. That historic meeting accepted the recommendations of the Neutrality Committee and adopted the Act of Havana for the provisional administration of European possessions and colonies in the Americas. It went further and proclaimed the right and the duty of any signatory to take defense measures if the safety of the continent were threatened.

These events have ushered into international law a basis upon which the United States may legally give aid to the Allies in the present situation. No longer can it be argued that the civilized world must behave with rigid impartiality toward both an aggressor in

violation of the Treaty and the victims of unprovoked attack. We need not now be indifferent as between the worse and the better cause, nor deal with the just and the unjust alike.

To me, such an interpretation of international law is not only proper but necessary if it is not to be a boon to the lawless and the aggressive. A system of international law which can impose no penalty on a law-breaker and also forbids other steps to aid the victim would be self-defeating and would not help even a little to realize mankind's hope for enduring peace.

The principle that war as an instrument of national policy is outlawed must be the starting point in any plan of international reconstruction. And one of the promising directions for legal development is to supply whatever we may of sanction to make renunciation of war a living principle of our society.

The only sanction that seems available in our time is the freedom of the right-thinking states of the world, particularly the states of the Western Hemisphere, to give a material implementation to their moral and nationally official judgments as to the justice of a war. The American States have done this officially with respect to the invasion of Belgium, Holland and Luxemburg. A public opinion which can express itself only in sermons is not likely to restrain the aggressive propensities of any powerful state. If, however, that opinion may command measures short of war that are likely to prevent the success of aggression, it is certain to have some deference even from the ruthless. Short of war measures which enlightened opinion may invoke include all forms of moral censure and diplomatic disapproval, discriminatory embargoes or boycotts, as well as financial credits and furnishing of supplies and material, weapons and ships. These speak a language understandable to those deaf to the precepts alike of Christian civilization and of legal obligation and scholarship.²

Dr. Edmundo Miranda Jordao, the newly elected President of the Brazilian Bar Association, then addressed the final plenary session. He is a partner of Richard Momsen, who is an American with law offices in Rio de Janeiro and branch offices in nearly every capital of South America. Dr. Jordao speaks English and Spanish as fluently as his native tongue, Portuguese. He is very popular with the members of the bar and is a strong believer in close cooperation between Brazil and the United States as indicated by the following extract from his address :

For my part I believe that within the spirit of continental solidarity and according to the letter of the treaties of Panama and

² The German News Agency DDPK attacked the principles set forth in the Attorney General's address describing them as "wild west" and stated that just as once the early settlers in the wild west of America were allowed to do anything under the plea of emergency so now under the "doctrine of self-defense" the United States gets around difficult points in international law. The Boersen Zeitung said that by the "Lex Frankfurter" an effort was made to cover up breaches of law by citing the Kellogg Pact and the League of Nations.

Havana, all the nations of this Continent should enforce their rights of free, democratic and independent nations, in case any of them should suffer an attack against their territorial integrity or their solidarity, cooperating with the attacked nation in proportion to their respective military forces and their economic resources, without any subordination of any kind, and without the breach of independence of any of them, thus maintaining juridically the principle of political equality among all of them, to the benefit of the best and most absolute continental solidarity.

The final address was delivered by Dr. Victor Vega, Minister of Justice of Cuba, who aroused the delegates to great enthusiasm by his inspiring address. It is regretted that only this brief extract can be reproduced here :

The lawyers have done well in bringing forth this Inter-American Federation which gathers, as in a temple, all those officiating in such a healthy doctrine and, at a time of deep disturbances such as the present, it takes pains to erase the little legal differences which, in some way, may constitute an obstacle to the forward march of Inter-American relations.

The study of law in our land has had a firm foundation from the remote times of colonization and its practice veritable apostles. From Don Juan de Arechaga y Casas who in the remote year of 1671 held the post of President of the Royal Audience Chamber of Mexico and who wrote his celebrated commentary on Civil Law which served the attorneys of that era for consulting purposes, on down to that world famous sage who through having become so great has ceased to be ours and has become world-wide in the extent of his influence, which is an honor for the University, prestige for the Bar and pride to the country: Antonio Sanchez de Bustamante, respect for the canons of law has suffered no decline among us, although our social order may at times change, to such an extent that in the wars of emancipation the Cuban revolutionists fought for the Republic on the fields of battle, organized and with a constitution outlined in just as democratic and liberal a form as the men of the most advanced ideas could make it.

Of the two bands into which destiny has divided men: one, which extolls the power over matter by force as the only creative element, and the other which elevates the spiritual to a definite tenet, and consecrates it as the only creative reason, it has been our good fortune to fall into the latter band and, in strange contrast, from a slave-holding and privileged society, we gave the world the most forceful defenders of equality and the most ardent defenders of human dignity.

The peoples of America love peace. Endowed by nature with rich gifts, born to a life of independence, with such suitable institutions as those based on democracy, they do not have that virus of hatred toward others which makes life unbearable in some parts of the planet. That we hate war and any kind of aggression we have given frequent proof. In the war of '14 that neighbor of ours, the

United States, so brilliantly represented at this Conference, gave the world the flower of its youth in defense of the weak nations which were being trampled and when the roar of the cannons ceased to listen to the words of peace and concord, it did not claim one inch of foreign territory; not one painting nor object of value was added to its patrimony. A strong and rich country, hardworking and honest, it kept its mourning and its sorrow as offerings to good principles and even today, above the voices of ambition, saturated with vulgar practices, which counsel that those who are struggling be abandoned to their fate, as if the sorrow of one man were not the sorrow of all men, and the misery of one country were not an affront to the welfare of others, it rises up in the face of threats, and accompanied by the prophetic words of its great President Roosevelt, places on the scales whereon the destinies of the world are being weighed, a magnificent spiritual offering. And Haiti and Santo Domingo, Bolivia and Chile, Peru and Ecuador, Venezuela and Brazil, Mexico and Colombia, Argentina and Cuba, the Isthmus countries, all in fact which go to make up the vigorous confederacy of free America, raise their voices in protest against the unjust aggressions to which other countries are subject, and they are preparing for the struggle in order to keep any doctrine, other than that embraced by generations of forebears who gave up their lives to make them free, from dominating these nations.

In this Continent, wealth, population and territory are unequally distributed but all the nations consider themselves equal as to rights and duties. He who measures his right to freedom by his size will perish in this great struggle we are witnessing; because neither now nor ever before was the right of nations measured by their size but by their strength; and only those are strong which have a noble ideal to guide them and which feel willing and capable of perishing rather than submit to being vassals.

We are peaceful, yes, and we must continue to be so. War destroys and exhausts everything; in its maw are consumed the highest values and the purest conceptions of civilization but the slavery which makes vile and degrades is more destructive and terrible than all the miseries of war. Let us promise right now not to be so peaceful that those who follow may say, rightly, that on account of our love for sweet peace we lost our freedom; nor let us be so stubborn and hypersensitive that they will be able to claim that we destroyed their happiness by overweening pride.

This is a moment to use wisdom, not daring abandon; weighing of decisions and not stupid audacity; calm and cool valor, not miserable cowardliness or stupid selfishness. Let us look at events with imperturbable calm, but let us ready our consciences and muscles for the supreme moment, and let us say to those who pretend to challenge the world, the simple words of San Fernando: "We are ready for the bitter or for the sweet; take your choice."

BUENOS AIRES CONFERENCE. Following the address of Dr. Victor Vega, Minister of Justice of Cuba, Dr. Enrique Gil of the Argentine delegation invited the Association to hold its next conference in Buenos Aires. His remarks were translated as follows :

At this moment of deep emotion in which we have listened to the eloquent words of the orator who has preceded me, I have the honor, in behalf of the delegation of The Argentine, and the Minister, Dr. Lascano, and myself, to invite the delegates and the institutions represented here to attend in September of 1942, in the City of Buenos Aires, the sessions of the Second Conference of the Inter-American Bar Association. I am especially entrusted by the Vice President, Dr. Castillo, to tell the delegates and the institutions represented here that this Second Conference of the Inter-American Bar Association will be under the official auspices of the Argentine Government.

President Supervielle in announcing the acceptance of this cordial invitation said :

The President is pleased to advise the assembly of the decision of this First Conference of the Inter-American Bar Association to hold its second meeting in the beautiful city of Buenos Aires, capital of the Argentine Republic. At the same time the Chair expresses the deep appreciation of all the delegates for the very kind invitation that has been extended by the Argentine delegates to hold the Second Conference in their capital city, and assures them that the organizations and bar associations represented here will give full support to that Second Conference.

RESOLUTIONS ADOPTED. Twenty-two resolutions were then adopted, some of which have previously been discussed. Their adoption was recommended by the Resolutions Committee composed of the following members chosen from each of the national associations represented at the Conference :

Jacob M. Lashly, United States
Luis Anderson, Costa Rica
Manuel Carrasco, Bolivia
D. L. McCarthy, Canada
Edmundo de Miranda Jordao, Brazil
Enrique Gil, Argentine
Eduardo Salazar, Ecuador
Jose Agustin Martinez, Cuba
Alberto Ulloa, Peru
J. Blanco Uzstariz, Venezuela
Camilo de Brigard Silva, Colombia
German Riesco, Chile
Felix Magloire, Haiti
Pedro Moreno, Republic of Panama
Wenceslao Troncoso, Dominican Republic

Mr. George A. Finch was designated to act for Mr. Lashly when he was obliged to return to the United States before the Committee's work was completed. Dr. Luis Anderson of Costa Rica, who was chosen to serve as Chairman, was called upon to present the report of the Resolutions Committee. He made the following comments :

Under the best of auspices, the work at this meeting has been deeply encouraging, and we have spoken to our countries an echo of deep sympathy and true hope. In our task, and in spite of the short time that we have had, our efforts have been intensive and fruitful. We have heard beautiful and well-prepared papers coming from the representatives of each one of the Bar Associations here represented. All those contributions have been the object of careful study, and from all we have received great advantage.

We have drawn up a series of resolutions which will be presented briefly to the assembly for approval, and which show the intention of this First Conference of the Inter-American Bar Association, which contributes to our science, the development of our activities, and above all, to the widespread feeling of peace, of justice and of security.

Among the resolutions that are to be read, the gentlemen who have contributed papers will find a crystallization of their efforts. There may have been some which, because of the political affairs involved, have not been the subject of a resolution, but their work has been entered in the record as an expression of the sentiment which has prevailed in this conference.

In the beginning of this task of ours, in deep justice I refer to two men whom we consider as monuments of international science and glories of our continent, as the most fervent examples which represent the present generation and undoubtedly future generations. I refer to the illustrious masters of international law, Dr. Antonio Sanchez de Bustamante and Dr. James Brown Scott. I knew very well, gentlemen, I was making a motion which was in the hearts of all of us, and which would have great effect throughout all the countries where we look upon these two illustrious men as eminent professors whom I have referred to as the luminous stars which mark the road along which our democracies must travel.

In view of the serious discussions that have taken place in recent years with respect to protection of foreign investments in the nations of this hemisphere, particular significance attaches to the second resolution unanimously adopted on this occasion, giving effect to recommendations contained in the thoughtful paper of Dr. Eduardo Salazar of Ecuador, on the subject, "Future Foreign Investors and Their Relations to the Internal Legislation of Each Country." It is regretted that the full text of Dr. Salazar's address cannot, for reasons of space, be reproduced here as it sets forth his considered judgment on this difficult subject as a result of years of experience in several of the nations of this hemisphere as an official of his government. This resolution reads as follows :

Recommendation on the Unification of Legislation Relative to Foreign Investments. For reasons arising out of the present international situation, among them being those set forth in the paper Future Foreign Investors and Their Relations to the Internal Legislation of Each Country, the First Conference of the Inter-American

Bar Association resolves to recommend that the academies, institutes, or associations of lawyers, and particularly those which are members of the Inter-American Bar Association, exert influence in their respective countries in behalf of legislative uniformity in matters relative to foreign investments, endeavoring to have included in such legislation principles which, while assuring the integrity and economic and commercial progress of each country, shall afford the foreign investor sufficient protection to encourage such investments.

CUBAN AND CONFERENCE OFFICIALS THANKED. It would be highly inappropriate if I failed to include in this paper the twenty-second resolution whereby the delegates to the Conference expressed their special debt of gratitude to particular officials, individuals or organizations that had contributed greatly to the success of the Conference. The resolution read as follows :

The first conference of the Inter-American Bar Association, on terminating its deliberations, wishes to record its profound gratitude to the President of the Republic, to the high officials of the Government, to the Supreme Court, to the House of Representatives, to the mayor of Habana, to Dr. Manuel Fernandez Supervielle, and to the Colegio de Abogados of Habana, for the many courtesies which they accorded the delegates attending the conference.

It likewise desires to express its appreciation for the efficient services by which Dr. Raoul Herrera-Arango has contributed to the successful results of the conference.

As Dr. Manuel Fernandez Supervielle became well known to many lawyers in Washington during his visit here last year, it is highly appropriate to record the remarkable executive ability, farsighted suggestions and courteous conduct of the deliberations of this first Conference composed of so many important personalities meeting for the first time, with such frequent possibilities for errors of judgment that might lead to acrimonious discussions and ill-will. The high regard in which he was held by the delegates was further recognized by the Executive Committee as hereinafter set forth.

Members of this Association will also recall with pleasure the excellent impression made by Dr. Raoul Herrera-Arango, Second Secretary of the Cuban Embassy, when he addressed the annual banquet of the Association on December 10, 1940, as a substitute for the former Cuban Ambassador, Dr. Pedro Martinez Fraga. Beginning with his attendance at the annual meeting of the American Bar Association at Philadelphia in September, 1940, as representative of the Havana Bar Association, Dr. Herrera has made an ever-widening circle of devoted friends among the lawyers of this city. Due to his great interest

in the Association's work and his unbounded energy, he was selected to go to Havana and make special preparations for the Conference. Although he was confronted with unusual and unexpected problems in connection with the preparation of the program, the translation of addresses and the functioning of the various committees, Dr. Herrera disposed of them with tact and never lost his temper although subjected at times to considerable provocation. He deserves special mention and an expression of personal appreciation on the part of the author for his untiring labors.

ORGANIZING COMMITTEE SELECTS OFFICERS. The confidence of the Conference in the ability and foresight of the members of the Organizing Committee was shown by the unanimous adoption of the resolution authorizing that Committee to select the officers of the Association as well as the members of the Executive Committee for the ensuing year. A spirit of fair play and a desire to serve the best interests of the Association pervaded the discussions of the Organizing Committee when it met on Friday, March 28, at the Hotel Nacional to perform this last and perhaps its most important function. Discussions took place throughout the day between members of the Committee and the important delegates from each member association. There was a complete lack of political log-rolling and trading for positions which is sometimes such an unpleasant feature of conventions. As the next meeting was to be held in Buenos Aires, it was considered desirable to have the next President of the Association from that city. This happy circumstance was strongly reinforced by the excellent reports regarding the energy and deep interest already manifested in the organization of an Inter-American Association of lawyers by the distinguished Argentine lawyer, Dr. J. Honorio Silgueira, President of the Federacion Argentina de Colegios de Abogados. Dr. Silgueira had previously arranged meetings of lawyers from the bar associations of Brazil, Uruguay, Bolivia and Chile with those of his own nation in order to consider legal problems of mutual interest. His selection to the high office of President was enthusiastically received when it was announced to the delegates.

In addition to Dr. Silgueira, the other officers selected were as follows :

SECRETARY GENERAL:

William Roy Vallance, United States

ASSISTANT SECRETARIES GENERAL:

Raul Herrera-Arango, Cuba

Walter Villegas, Argentina
Curtis Shears, United States
Dantes Bellegarde, Haiti
Alberto Ulloa, Peru
Camilo de Brigard Silva, Colombia

TREASURER:

William Cattron Rigby

ASSISTANT TREASURER:

Howard S. LeRoy

EXECUTIVE SECRETARY:

Lawrence D. Egbert

EXECUTIVE COMMITTEE:

J. Honorio Silgueira, President
William Roy Vallance, Secretary General
William Cattron Rigby, Treasurer and Chairman
James Oliver Murdock
D. L. McCarthy
Luis Anderson
Manuel Fernandez Supervielle
German Riesco
Edmundo de Miranda Jordao

VICE PRESIDENTS:

Enrique Gil, Argentina
Tomas Manuel Elio, Bolivia
Edmundo de Miranda Jordao, Brazil
D. L. McCarthy, Canada
Oscar Davila, Chile
P. Alejandro Gomez Naranjo, Colombia
D. Alberto Echandi, Costa Rica
Gaston Godoy y Loret de Mola, Cuba
Manuel R. Balarezo, Ecuador
Felix Magloire, Haiti
Esteben Guardiola, Honduras
Miguel S. Macedo, Mexico
Pedro Moreno Correa, Panama
Manuel C. Gallagher, Peru
Jacob M. Lashly, United States
Arturo Puigbo Ronso, Venezuela

An Executive Council consisting of the following persons
was also elected :

Argentina

Enrique Gil
Walter Villegas

Brazil

Jose Philadelpho de Barros Azevedo
Edmundo de Miranda Jordao

Canada

Lucien Moraud
D. L. McCarthy

Chile

German Riesco
Carlos Estevez

Colombia

Camilo de Brigard Silva
Miguel Moreno Jaramillo

Costa Rica

Luis Anderson
Antonio Picado

Cuba

Manuel Fernandez Supervielle
Natalio Chediak

Ecuador

Jose Luis Tamayo
Eduardo Salazar

Haiti

Dantes Bellegarde

Honduras

Antonio S. Bustamante

Mexico

Miguel S. Macedo
Emilio Portes Gil

Peru

Juan Bautista de Lavallo
Alberto Ulloa

United States

James Oliver Murdock
John H. Wigmore
George M. Morris
John T. Vance
William S. Culbertson
John P. Bullington
W. E. Stanley
Frederic R. Coudert
Emilio del Toro
William Draper Lewis

Venezuela

Cristobal Mendoza
J. Blanco Uzstariz

As a fitting climax to the meeting, the Executive Committee on Saturday morning, March 29, voted unanimously to create the office of Honorary President of the Inter-American Bar Association for which only former active presidents could be eligible. Due to the unusual strain of the Conference, Dr. Supervielle became ill but with the cooperation of his efficient and hospitable wife, aided by his charming daughter, a notification ceremony was held at his residence on Saturday afternoon

attended by delegates remaining in Cuba. On that occasion, Colonel William Cattron Rigby, in advising Dr. Supervielle of this high honor, made the following remarks :

This morning by unanimous action of the Executive Committee the office of Honorary President of the Inter-American Bar Association was created, to which only former active Presidents are eligible. It is not, however, an office to which every President may succeed as a matter of mere routine, simply because he has once served his term as President. On the contrary, while it carries no active duties or responsibilities, this life-long office as a kind of "Elder Statesman" is designed to be a post of distinguished honor, to be conferred only upon such of the former active Presidents of the Association as shall have rendered outstanding services in its behalf and in furthering the great purposes of our organization. It was created by the unanimous action of the Executive Committee exercising the power conferred upon it by the Council under our Constitution, in order to be able at this time promptly to mark in a signal way the appreciation and admiration of all of the officers, the members of the Executive Committee, and of the Council,—and of the delegates from the Bar Associations of various countries of this Hemisphere, here assembled in this beautiful city of Havana at our First Conference,—of the magnificent manner in which you have discharged the heavy duties imposed upon you as first active President of the organization.

The Inter-American Bar Association was organized only about ten months ago, May 16, 1940, on the occasion of the gathering of lawyers at the Eighth American Scientific Congress in Washington, D. C. It was then only a dream; the expression of an ideal. You were elected its first President. Very largely through your efforts, it has now become a living reality. Your zeal, your unflagging devotion, your wide vision, your inspiring conception of its high purposes, have contributed in large measure toward crystallizing the ideal into the present living institution.

I have the high honor and the very great pleasure officially to notify you, Dr. Manuel Fernandez Supervielle, of your election for life as the first Honorary President of the Inter-American Bar Association.

WILLIAM ROY VALLANCE.

SECRETARY GENERAL OF THE INTER-AMERICAN
BAR ASSOCIATION.