

approximately mint par. Consequently on February 8, Secretary of State Hull, in accordance with the desire of the President, sent letters to the Chairman of the Committee on Foreign Affairs of the House of Representatives and the Chairman of the Foreign Relations Committee of the Senate requesting them to secure the enactment of a bill authorizing annual appropriations to meet losses sustained by officers and employees of the United States in foreign countries due to the appreciation of foreign currencies in their relation to the American dollar. In urging this legislation, Secretary Hull stated that "obviously it will be impossible to prevent the complete disintegration of the service at an early date unless Congress shall speedily provide ample appropriations which will permit the restoration of the former normal purchasing power of all salaries and allowances of officers and employees of the government in foreign countries . . . fixed by Congress or by lawful regulation."³

The bill was passed by the House of Representatives on February 22 and by the Senate on March 10, and was approved by the President on March 26, 1934. The act is not limited to an appropriation for the present year, but provides permanent relief by authorizing "to be appropriated annually such sums as may be necessary to enable the President, in his discretion and under such regulations as he may prescribe and notwithstanding the provisions of any other Act and upon recommendation of the Director of the Budget, to meet losses sustained on and after July 15, 1933, by officers, enlisted men, and employees of the United States while in service in foreign countries due to the appreciation of foreign currencies in their relation to the American dollar." It will be noted that the act is retroactive to July 15, 1933, but no payments may be made under it to any officers or employees for periods during which their checks or drafts were converted into foreign currencies under the arrangements of the President above referred to. Allowances and expenditures made pursuant to the act are not subject to income taxes, and the Director of the Budget is required to report all expenditures made for this purpose to Congress annually with the budget estimates.⁴

ELLERY C. STOWELL

REGISTRATION OF UNITED STATES TREATIES AT GENEVA

On several occasions, the writer has invited the attention of the readers of the *JOURNAL* to the progress made under Article 18 of the Covenant of the League of Nations in connection with the registration and publication of treaties.¹ The movement for a coöperative publication of treaty texts was initiated by Holtzendorff in 1875; it was backed by a resolution of the Institute of International Law in 1891, and it led to an abortive international conference at Berne in 1894; it bore fruit, however, in 1919, in the provisions

³ Congressional Record, March 10, 1934.

⁴ Public No. 129, 73d Congress, approved March 26, 1934.

¹ Manley O. Hudson, "The Registration and Publication of Treaties," this *JOURNAL*, Vol. 19 (1925), pp. 273-292; "The Registration of Treaties," *id.*, Vol. 24 (1930), pp. 752-757.

in Article 18 of the Covenant. The execution of these provisions has proceeded since 1920, with a quite general satisfaction. If the text of "every treaty or international engagement" has not been registered with the Secretariat of the League of Nations,² a sufficient number of texts has been registered to enable one to say that compliance with the requirement of registration has become the general and almost universal practice. Prior to January 1, 1934, 3,312 registrations had been effected in regular serial numbering. With only a few exceptions, all of the texts registered have been published in the League of Nations Treaty Series, of which 138 volumes have now appeared.

The Treaty Series constitutes a compendium of the world's treaty law, the need for which had long been felt, and it has now become the standard collection in use throughout the world.³ Each text is reproduced in the original languages, and if French and English are not used as original languages, in French and English translations.⁴ Moreover, information is made available in the Treaty Series concerning such modifications of treaty situations as result from ratifications, adhesions, and denunciations. A gain of inestimable advantage has thus been achieved for lawyers and scholars who must use the treaty texts, and it is only increased as the Treaty Series is made more universal and comprehensive.

The privilege of registration has not been confined to the members of the League of Nations. In the original memorandum approved by the Council on May 19, 1920,⁵ it was stated that applications for registration would be accepted, even where no party to the instrument is a member of the League of Nations. Though Germany was not at the time a member of the League of Nations, the German Government stated in a communication of August 11, 1920,⁶ that it would avail itself of the privilege, and many registrations were effected at its request prior to the admission of Germany to the League of Nations in 1926. Other states not at the time members of the League of Nations have submitted treaties for registration, notably Ecuador and Brazil.

² Apart from one's knowledge as to certain treaties, it is impossible to say that all other treaties have been registered.

³ The excellent British and Foreign State Papers and Martens' *Nouveau Recueil Général* have been continued to date, but neither is as complete as the League of Nations Treaty Series.

⁴ In 1923, when it was proposed to abolish the system of double translations for the sake of economy, the American Society of International Law accepted a gift from an anonymous donor to be used for the purchase of 400 copies of the Treaty Series for free distribution, on condition that the double translations be maintained. *Proceedings of the American Society of International Law*, 1923, pp. 110, 137. The resolution of the Society noted "the usefulness to American lawyers and publicists of the Treaty Series" and the "importance of having the texts of all treaties thus made readily accessible." Such copies were bought and distributed for a period of two years, at the end of which a definite decision to continue the double translations was taken by the Secretariat of the League.

⁵ 1 League of Nations Treaty Series, pp. 7, 13.

⁶ League of Nations Official Journal, 1920, p. 444.

The position of the United States, however, has until recently been one of hesitance. Of course, many of the United States' treaties have been registered at the request of other parties, since the beginning. In a communication to the Secretary-General of the League of Nations in 1926, the Government of the United States stated that "henceforth it will send regularly to the Secretariat treaties contracted by the American Government and included in the United States Treaty Series."⁷ Since that time, copies of the United States Treaty Series have been sent to the Secretary-General, as they appeared, but without any covering letter.⁸ The Secretariat has euphemistically referred to this as "communication" of the texts. Its practice has been, on receipt of the text of a treaty between the United States and a member of the League of Nations, to inquire whether the latter desired to request the registration, and to withhold publication meanwhile; in most cases the request has been made, though sometimes only after great delay. If after a reasonable time, which might have been several years, no prospect of registration developed, or if the other party was not a member of the League of Nations, the text was entered, not registered, in a special "B" serial numbering and published in the League of Nations Treaty Series.⁹ This was manifestly an unfortunate situation, placing the United States in an invidious position and at times depriving the United States of the advantages of prompt publication of its treaties.

The matter was drawn to the attention of the Secretary of State in a communication addressed to him on January 28, 1931, by sixty teachers of international law and international relations in American universities, law schools and colleges, who urged "the inauguration of a practice of requesting the Secretariat of the League of Nations to register the treaties and international engagements which the United States may make from time to time." The reply was made on February 27, 1931, that it would be "inappropriate for this government to register treaties with the Secretariat."¹⁰ Recently, however, the Department of State has taken a different view. In January, 1934, conversations were held between the American Consul at Geneva (Gilbert) and the Acting Legal Adviser of the Secretariat of the League of Nations (McKinnon Wood) which led to a communication by the latter on January 22, 1934, in which he stated:¹¹

Should, therefore, the United States decide to adopt the practice of registering international agreements concluded by it with the Secretariat the position would be as follows:

(a) Such registration would not involve acquiescence by the United States in the stipulation of Article No. 18 of the Covenant that no instrument shall be binding until registration.

⁷ 48 League of Nations Treaty Series, p. 444 note.

⁸ The texts of 178 treaties were thus sent to the Secretariat of the League of Nations.

⁹ Fifteen treaties or agreements were thus published.

¹⁰ The texts of the letters exchanged are reproduced in *Proceedings of the American Society of International Law*, 1931, pp. 250-253.

¹¹ Dept. of State Press Releases, Feb. 3, 1934, p. 63.

(b) Such registration would result in publication of treaties and executive agreements between the United States and members of the League and likewise those between the United States and other states not members of the League in the League of Nations Treaty Series in the same category and with the same promptitude as treaties registered by the member states.

(c) Such registration would result in the elimination of the delay in the publication of instruments which may hitherto have been caused by the suspension of publication of treaties sent to the Secretariat by the United States until appropriate notification had been made to the interested member states.

If the United States requested registration of a treaty, such registration would be effected at once and the treaty be published in the same manner as though it had been presented by a member state. Since registered treaties are published in the order of registration, the exact date at which a treaty appears in the Treaty Series necessarily depends on the progress made in producing the series.

(d) Such registration would not involve an obligation on the part of the United States to pay any charges or expenses.

On January 23, 1934, the American Consul, after restating the League's position as indicated in the foregoing paragraphs, stated in reply: ¹²

With regard to points (b) and (c) above, my understanding of the arrangement envisaged is that upon the United States requesting the registration of a treaty such registration will be effected at once and the treaty published in the same manner as though it had been presented by a member state; it is, however, entirely clear that inasmuch as registered treaties are published in the order of registration, the exact date at which a treaty appears in the Treaty Series necessarily depends on the progress made in producing the series.

I further understand that in cases of this character a simple acknowledgment of the request for registration, and not a formal certificate of registration, is addressed by the Secretariat to the government presenting a treaty for registration, in view of the fact that the registration is not legally obligatory.

I take pleasure in informing you that my government will be glad, in accordance with the memorandum approved by the Council of the League on May 19, 1920, and in accordance with the understandings expressed in your letter which I have recapitulated above, to furnish the Secretariat through the American Minister at Bern for the purpose of registration and publication a certified copy of each international agreement to which the United States shall hereafter become a party.

This is a happy augury for the future of documentation on international affairs, for which future generations of lawyers and scholars will doubtless be exceedingly grateful. It has the definite advantage for the United States of making its treaties "more widely available" in other countries; it encourages the registration of treaties by other states; and it is a welcome recognition of the general benefit to be derived from the provisions of Article 18 of the Covenant.

MANLEY O. HUDSON

¹² Dept. of State Press Releases, Feb. 3, 1934, p. 64.