

YALE LAW JOURNAL

VOL. XV.

FEBRUARY, 1906

No. 4

THE NEW "ASSOCIATION INTERNATIONALE DES AVOCATS."

The general tendency of the times during the last half century towards collectivism has not been without its fruits for lawyers. They have formed permanent associations of a representative character in the leading countries of the world, or have given new and better form to those which previously existed. In England the General Council of the Bar, the Council for Legal Education and the Council for Law Reporting have taken up functions previously belonging to individuals or to the Inns of Court, or to nobody. In this country most of our States have organized State Bar Associations, and the American Bar Association sprang into vigorous life in 1878. Since the federation of Germany, we have the *Deutscher Anwaltverein*, founded in 1871, which has its seat at Leipsic where the Imperial Court of Appeals has its sessions. Saxony has its own Chamber of Advocates and Denmark, Norway, Switzerland, Belgium, and Russia, each has its national federation, that of Russia having been organized under great difficulties in April, 1905, at St. Petersburg.¹

National associations of those engaged in any pursuit naturally lead to their international association. For the lawyers of the world the first definite movement in this direction proceeded from Belgium.

Her national Federation of Advocates was formed in 1885 (with the motto *omnia fraterne*) and ten years later voted to invite the

¹ *Compte-Rendu du Congrès International des Avocats, 2nd Session, Liège, 30 Septembre, 1905, p. 158.*

assemblage at Brussels in 1897, of representatives of the bar from all nations. A circular was sent out, addressed to leading lawyers in all civilized countries, stating the nature of the proposed congress and asking for information and suggestions on certain topics. One of these was the possibility of creating a permanent international organization between the bars of different countries as organized bodies, or between the members of these bars individually. It was suggested that if such an organization were formed, it would serve for these purposes: to communicate information of foreign legislation with reference to judicial procedure; the selection of lawyers in foreign countries for particular services; the assemblage of congresses or reunions of lawyers; mutual hospitality; the publication of an international yearbook on the legal profession; and the organization of a system of international judicial assistance for poor men desiring to prosecute claims in foreign countries.²

Responses were received from twenty-two different countries and a number of communications in answer to the *questionnaire* were published in separate leaflets. These were not, however, in all cases the work of lawyers of the particular country, as to the institutions of which they related.

The United States for instance, were principally indebted for the information accredited to them to an article prepared by Professor Nerincx, of the University of Louvain, who had travelled in this country, and a piquant criticism of the American courts from whose pen was published in the YALE LAW JOURNAL for May, 1905, page 380. This was supplemented by a paper from a Belgium lawyer founded on some observations by an American judge.

The preparations for this congress had been carefully made, and full information of what it was proposed to do had been given from time to time in the Brussels *Journal des Tribunaux*.

The congress was purely a European one, and in its discussions the prominent thought was that they should endeavor to create such a spirit of fraternity between the various bars of Europe that those belonging to them might all be considered as members of one general European bar. Herr Goldschmidt of Berlin, however, took more advanced ground and proposed that the congress should constitute itself a permanent international association of advocates, electing an executive committee to prepare the proper constitution and by-laws, and to reconvene in 1900; the permanent seat of the bureau of organization to be for the first three

² *Compte-Rendu du Premier Congrès International des Avocats, Bruxelles, 1 Aout, 1897*, p. 10.

years at Brussels, and the general meetings to be in the different capitals of Europe in turn.³

The congress remained in session for seven days, and the final decision was to postpone any definite decision as to the formation of an international association until a subsequent congress of a similar character had been convoked by a committee of Belgian lawyers who were to establish a bureau of organization at Brussels. To this committee was committed the duty of calling such a congress in two years and of taking measures to strengthen fraternal relations between the bars of different nations in such a way as to lead insensibly to their forming an international federation.⁴

The two years passed, but no call was issued. The great conference at the Hague, held in 1899, was occupying public attention, and it was thought best to make no attempt to hold another, during the same year, of a character necessarily less imposing, especially as the Hague Conference was composed, in part, of leaders in the legal profession, and so of the very men whose presence would be hoped for at the second international congress of advocates. The next year the third conference met at the Hague for the promotion of harmony in the administration of Private International Law, and similar reasons militated against the calling of any other by the Belgian committee.

Meanwhile, Herr Micocki, a member of the Vienna Bar, apparently on his own responsibility, undertook the organization of what he termed the *Internationaler Anwalt-Verband*. Circulars were widely distributed, inviting adhesions and stating the objects to be attained. These seemed largely to be of a commercial character. The members of the *Verband* were to be correspondents of each other in matters of professional business, paying a yearly fee and together constituting a sort of international collection agency.

This movement was coldly looked upon in the United States, and received nowhere any large and general support. The society, however, was set up and still exists. In 1903 it commenced the publication of a monthly magazine at Vienna, styled the "*Zeitschrift des Internationalen Anwalt-Verbandes*." Of this it has been remarked by the "*Nouvelle Revue Pratique de Droit International Privé*," that it "*malgré son titre, n'est surtout qu'une revue strictement cisleithane*." It may be doubted, indeed, if its circulation is very large on either side of the Leitha. The *Internationaler Anwalt-*

³ *Compte-Rendu du Premier Congrès*, p. 145-172.

⁴ *Ibid*, 171.

Verband, though not finally one of the adherents to the Liège Congress, sent a reply to the preliminary *questionnaire*.

The first real advance made after 1897 towards the creation of a general and representative association of lawyers of all nations occurred in the United States.

In 1901, the American Bar Association appointed a committee to unite with the Louisiana Purchase Exposition Company in convoking at St. Louis, during the Exposition year, a "universal congress of lawyers, and jurists," and on the recommendation of this committee, made in 1903, the Association voted that year, at its meeting at Hot Springs, that its delegates to that Congress should "be instructed to take into consideration, after consultation with foreign delegates, the advisability of presenting to the Congress a project for the formation of an international bar association.

The St. Louis Congress was held in September, 1904. It was organized by the appointment at the outset of a business committee, styled the "Committee of Nations" on which each nation sending delegates to the Congress was represented by one member. Judge Robert G. Street of Texas brought before the Congress a resolution looking towards the organization of an international association of lawyers and jurists, which was referred to the committee of Nations, and on their report the following action was taken:

"Resolved that this Congress, recognizing the importance of promoting friendly intercourse between the jurists and lawyers of different nations, to the end that by harmonious effort they may labor efficiently for the improvement of the law and the maintenance of international peace, request the American Bar Association to take such steps as are necessary to organize a permanent association of lawyers, representing the different countries of the world, which shall meet at intervals to discuss legal questions of public interest; and that this resolution be transmitted to the Secretary of the American Bar Association."

Before the next meeting of the American Bar Association, however, the committee of organization created by the Brussels Congress of 1897 had taken steps in the same direction. They issued on May 15th, 1905, a circular of invitation to a second international congress of advocates for the purpose, among other things, of discussing the expediency of creating a permanent international bar association on the lines which had been suggested at the former Congress at Brussels. This circular was addressed to the bars of various foreign countries, as represented by organized bodies, and also to many individual lawyers of different nations. The time suggested was September 30th, 1905, and the place

Liège. 1905 was the seventy-fifth year of the independence of Belgium, and this anniversary was made the occasion of a national exposition at Liège, in connection with which the congress was to be held.

Over three hundred different organizations and individuals responded favorably to the invitation, representing Germany, Great Britain, Austro-Hungary, Canada, Denmark, Egypt, Spain, the United States, France, Italy, Norway, the Netherlands, Portugal, Roumania, Russia and Switzerland. Only one of the persons thus giving his adhesion to the Congress was from the United States.

Among the organized bodies in this list were the Chamber of Advocates of Saxony, the Federation of German Advocates, the Chamber of Advocates of Lower Austria, the Federation of Danish Advocates, the Federation of Norwegian Advocates, the Swiss Federation of Advocates, the Federation of Belgian Advocates, and a considerable number of local bar associations. The American Bar Association at its meeting in August 1905, commissioned a delegate to attend the Congress, but he was unable to be present, though sending its adhesion by letter.

The Minister of Justice of Belgium was the Honorary President of the Congress, and in his inaugural discourse said that the hour had come to ask if the idea of an international understanding between the different countries was not ripe enough to warrant the consecration of their union by some permanent and durable bond.

In the discussions which followed it was from Germany, as at the previous congress, that the warmest approval of the plan of an international association came. Herr Heiliger, a delegate from the Federation of German Advocates, and also from the Chamber of Advocates of Cologne, recalled attention to the proposition of his fellow countryman, Herr Goldschmidt, at the previous congress, and said that the time had come to take definite action of that nature. Enough time had been spent in preparation. "Let us now," he said "act, and act at once." International congresses were all very well, but unless back of them lay a permanent organization, they were too much of the nature of comets, suddenly appearing in the firmament, scattering a blinding light about for a few days, and then disappearing in the immensity of space. In one respect he should differ from Herr Goldschmidt. He would have the seat of the organization permanent, and he would place it in Belgium. The preparation for each congress or meeting of the association should be the serious work of a bureau, which, as soon as one annual meeting was over, should plan for another.

At the close of a long debate the following resolutions were adopted:

"1st.—The Congress decides on the establishment of an international association of advocates.

"2d.—This federation shall be directed by a permanent committee, with the title of Permanent Committee of the International Association of Advocates.

"3d.—The composition of this permanent committee is confided to a provisional commission. (Those appointed on this commission was then named. All are of the bar of Belgium, and M. Jaspar was designated as its general secretary.)

"4th.—The Congress decides that it will hold another session three years from the present time."

It is probably better that the real initiative of this project came from Europe rather than from the United States. The natural seat of organization for any international association of a scientific character is certainly in Europe. She is the center of the republic of letters. She is also the center of the commercial intercourse of the world. If a hundred or a thousand men representing all civilized nations are to get together at any point of the globe, they can accomplish a meeting, at the least cost of time or money to most of them, by the selection as such point of some city on the continent of Europe. Liège, therefore, was not ill chosen as the place for assembling a congress of advocates in 1905, nor was Belgium ill chosen as the permanent seat of the bureau of organization for the meetings of the international association of advocates. It is not a country from which any attempt to pervert such a body for political purposes can be reasonably anticipated. It is too small and too unimportant as a world-power. Its state of guaranteed neutrality is a protection against hostile foreign influences, and makes it unimportant that any watch should be maintained to guard against them in a matter of this nature. The language of Belgium also is still, more than any other, the common language not only of official but of unofficial international intercourse. There would be something provincial in publishing the proceedings of any international congress in which there was a wide range of international representation, in English, and still more German, with the German newspaper and all ordinary German literature, printed in a mediæval script. Belgium, moreover, has the great advantage of using the tongue of another and far greater nation, and one which has long been profoundly interested in the scientific expression of legal thought. The law of Belgium too is more in accord with the prevailing law of

Europe than that of any country not founded on the *Codc Napoléon*.

The American Bar Association, having given its adhesion to the Liége Congress, will probably welcome the action taken by that body and identify itself with the new association which has been thus launched into life. It may safely be predicted that it will send delegates to the first meeting of the International Association of Advocates, and individual American lawyers and representatives of State and local bar associations who are travelling abroad will also be apt to attend and participate in the meetings of the new association. This will become a pleasant incident of many a summer vacation. No one can be a member of such an international assembly without learning something new nor without forming acquaintanceships of present interest and future value.

The American Bar Association held last year its twenty-eighth annual meeting. The Federation of German Advocates has already celebrated its seventeenth reunion. Lawyers have become familiar with the advantages which such meetings afford for extending their knowledge of the judicial institutions of different parts of their own country. Those flowing from attendance at international gatherings can hardly fail to be greater still.

No one can read the minutes of the Liége Congress without being sensible of the thrill that must have pervaded the assembly when this telegram was received on October 3d, from Russia.

"To our brothers united in international congress: Greetings from the Bar of St. Petersburg. Sorry not to be able to assist in your deliberations on account of our national cares in the struggle for liberty.—Bâtonnier Tourtchaninoff."

It was made doubly impressive by the presence of Michael de Kœtteritz, of the bar of Moscow, who followed it by a vivid picture of what this struggle for liberty had been. Since 1895, he said, the younger lawyers had given a large part of their time to defending political prosecutions and with the principal object of bringing before the public the importance of the case to society as a whole. In 1900 they formed a regular organization to vindicate the rights of the oppressed and to fix upon definite rules of proceeding. A meeting of the "Society of Advocates" was held in Moscow in 1903 at which an organization was formed under the name of the "Alliance of Public Defenders." The defense offered was largely gratuitous. The advocates were the first to respond by organization to the exigencies of the historic moment of the Autumn of 1904, when the public conscience began to be awakened. Another assembly was then held of Russian lawyers, which resolved

that on November 20th, 1904, the *fête* of the fortieth anniversary of Russian judicial reform, they would give out a statement of the course of justice in Russia during these forty years, and would show that the necessary conclusion was the absolute necessity for a national assembly. This was done. A meeting held on the day in question at Moscow was numerously attended by the lawyers of that city. Smaller ones were held in many other places. Everywhere by a concerted plan, resolutions were passed in the following language:

"The Federation of Russian lawyers has for its object to unite the bar in order to acquire for the good of the country liberty based on a democratic constitution. The Federation deems it necessary that this policy should be propagated publicly and that a constituent assembly should be convoked, elected by universal suffrage on nominations made by secret ballot."⁵

In March, 1905, general assemblies were held throughout all Russia of lawyers to choose delegates to a meeting of the lawyers of the whole nation. This gathering, despite all obstacles created by the police, took place at St. Petersburg in April, 1905. They then organized the alliance of all Russian lawyers, and adopted a platform. All of the best lawyers took part in the alliance, and despite the persecutions of the government under the penal code, whose provisions contain a menace of exile and imprisonment at hard labor, the number of its members had continuously augmented.

It was a stirring story of a notable series of events.

Incidents like this must often give life to an international assembly of those whose profession associates them so nearly with the conduct of public affairs.

The attendance at the Belgium Congresses, out of which the *Association Internationale des Avocats* has been developed, while not quite as large nor as widely represented in character as might have been desired, was in the fullest sense respectable.

Among those participating in the deliberations who are best known on this side of the Atlantic, a few may be specially mentioned.

In the first Congress (of 1897), Montague Crackanthorpe, K. C., of Lincoln's Inn, spoke repeatedly and at length. He has been chairman of the Council of the Incorporated Society of Law Reporting, and accompanied Lord Russell to this country in 1896, when the latter came here as the guest of the American Bar Association. M. Edouard Clunet of Paris, the editor of the *Jour-*

⁵ I. e. by the *scrutin de liste*.

nal du Droit International Privé, also took a leading part in the discussions.

Dr. A. Hindenburg, of Copenhagen, a Vice-President of the second Congress, will be remembered as an active participant in the Buffalo meeting of the International Law Association in 1889. M. Clunet, was another of the vice-presidents, and heartily favored the establishment of a permanent association. Among the adherents of the Congress were: Sir Thomas Barclay of Paris and Lincoln's Inn, to whom the negotiation of the treaty of arbitration between France and Great Britain was largely due; Maitre Labori, who attained such success as the advocate of Dreyfus; Professor Ugo Conti, the distinguished penologist, of Bologna; Dr. Emile Stocquart of Brussels, whose work on the marriage laws of Spain was recently reviewed in this Journal, and whose "Studies in Private International Law" were dedicated to the American Bar Association; and Professor Nerinx to whom allusion has already been made, and who read a paper on the jury system, before the St. Louis Congress in 1904.

The general secretary of the permanent bureau of the Association is M. Henri Jaspar of Brussels.⁶

Great credit is due to the bar of that city for their share in the careful preparation that was made of the business to come before the Congress at Liège, and in the whole work of getting it together. Three of them constituted the executive committee of the "*Commission d'organisation*," on whom the main burden of the necessary correspondence fell, and are now members of the permanent bureau of the Association.

Simeon E. Baldwin.

⁶ Any applications for admission to membership should be made through M. Jaspar (*Avenue de la Toison d'Or, 93*), Brussels. The preliminary reports and memoirs, printed before the Congress of 1905 was opened, can be procured from the publisher, Madame Ferdinand Larquier, Rue des Minimes, 26, Brussels, by whom the *Compte-Rendu* of the Congress was also published.