is enough to say that the power of Congress to provide for the recall for witness duty of United States nationals residing abroad has been successfully defended and that procedure for enforcing the recall provided in the Walsh Act has survived the test of a determined attack upon its constitutionality.

If it is proper to recall nationals for witness duty, and if the recall is to be exercised effectively, it is difficult to conceive of a more satisfactory way of coercing the return than through seizure of property,[23] or of a more appropriate method of notifying the national abroad than through the national consular service. Seizure of property by the state to coerce the return of a non-resident national is an old device tested by use in a variety of circumstances.[24] The consular service provides a well-organized machinery for keeping in touch with nationals abroad.[25]

In making it the consul's duty to "serve" subpoenas, orders, etc., the Walsh Act does not authorize, indeed it could not properly authorize, an exercise of executive or judicial jurisdiction by a United States officer in a foreign country. It merely makes the consul the agent through which a department of the United States government communicates with its non-resident nationals. The consul acts, in the words of the court in the Blackmer case, "as a mere messenger of the government of the United States." [26] The jurisdiction is founded upon allegiance, not upon personal service at a place within the territorial jurisdiction of the court. Personal service is significant because it provides a form of notice which is amply sufficient to satisfy the constitutional requirements of due process of law.[27] It is no more an invasion of the territorial jurisdiction of another state than notice to a national abroad that he is required to pay a tax or that he has been ordered to return for military service.[28]

EDWIN D. DICKINSON

RATIFICATION OF LEAGUE OF NATIONS CONVENTIONS

Perhaps the most striking fact in the history of international law since the time of Grotius has been the extraordinary development of conventional law since the beginning of the present century. Professor Manley Hudson, in

[23] The return of a non-resident national may be coerced by withdrawal of protection, expatriation, arrest upon return, or forfeiture of property within the control of the state. Of these sanctions, forfeiture of property is probably the most humane and the most efficacious.

[24] See Bartue and the Duchess of Suffolk's Case, 2 Dyer, 176b; Knowles *v.* Luce, Moo. (K. B.) 109.

[25] See Hyde, International Law, I, 828–832.

[26] 49 F. (2d) 523, 528.

[27] "Actual service of process outside the state, while of course it cannot enlarge a state's jurisdiction, would seem an essentially fair way of bringing knowledge of a pending suit to one who is subject to the jurisdiction." Goodrich, Conflict of Laws, 139. *Cf.* McDonald *v.* Mabee, 243 U. S. 90; In re Hendrickson, 40 S. D. 211.

[28] The doubts expressed in 27 Columbia L. Rev. 204, 207–209, seem to be based upon a misconception of the function which the consul performs under the Walsh Act.

an article published in this JOURNAL,[1] has given a list of 280 conventions, accords, protocols, declarations and other international acts, mainly of a law-making character, which were concluded between the years 1900 and 1928. Of these, 166 were concluded since the close of the World War. The number has of course greatly increased since 1928 when his article was published. The multiplication of international conventions since the war has been due in large measure to the activity of the League of Nations. In fact some sixty-five or seventy conventions concluded since the war owe their existence directly or indirectly to the League, that is, they have been formulated and proposed by conferences called by the League or held under its auspices.

It would be misleading, however, if we failed to note the fact that a considerable number of these conventions have never been ratified and are not therefore in force, and that a larger number still have been ratified by only a small number of states, in some cases by states of little importance.[2] An examination of the status of the Inter-American Conventions concluded by the Pan American Conferences will show a result still less favorable. Thus of the eleven conventions adopted at Havana by the Sixth Pan American Conference in 1928, only one has been ratified by as many as eleven states. Various American states, among them Argentina, Bolivia, Ecuador, Salvador, Paraguay and Uruguay, have not ratified any of them.[3]

The failure of numerous states, members of the League, to ratify conventions concluded under its auspices and recommended for ratification, and the long delays in taking action on others, have been the cause of some anxiety and even of complaint on the part of the Assembly and Council. Accordingly, on September 9, 1926, the Assembly adopted a resolution requesting the Council to appoint a committee to enquire into the causes of the inaction and delays, and to propose a procedure by which the number of signatures, ratifications and accessions to such conventions might possibly be increased in the future. The committee was appointed in January, 1930, and in May of the same year it made a report in which it stated that, while there was no reason to be discouraged, since of 59 conventions, agreements and protocols which on that date had been concluded under the auspices of the League, 26 were then in force (a showing not less favorable than that of conventions not concluded under League auspices). Nevertheless, the report added, the re-

[1] The Development of International Law since the War, Vol. 22 (1928), pp. 90 *et seq.*

[2] As to this, see the statistics published in a League document entitled Ratifications of agreements and Conventions concluded under the auspices of the League of Nations, A. 6 (a) September 9, 1930; also a document entitled, *Tableaux, Diagrammes et Graphiques, montrant l'état des signatures, ratifications et adhésions aux accords et Conventions conclus sous les auspices de la Société des Nations au 1er Sept. 1930, No. A. 20.* 1930. Such a table is now published three times a year.

[3] As to the facts, see a document published by the Pan American Union, on the 6th of January, 1931, entitled *Ratificaciones de las convenciones suscritas en la Sexta Conferencia Internacional Americana.*

sult was by no means what it should have been.[4] Among the causes of the delays and failures on the part of states to take action on conventions submitted to them, the committee mentioned the lack of sufficient time on the part of various governments, already overburdened with other tasks, to examine and study the drafts of conventions submitted to them, and especially those of a more elaborate, complex and technical character; the want of interest on the part of some governments in certain conventions which did not affect them or their people directly; the complex procedure of ratification required by the constitutions of some states, particularly those which require parliamentary approval; lack of sufficient time for their discussion by the parliaments where parliamentary approval is necessary; and the necessity in some countries of enacting in advance of ratification the legislation made necessary by the proposed convention. Other reasons were also suggested as being responsible in some cases for the inaction or delays of certain states.

After considering various proposed methods by which the procedure of ratification might be accelerated and the number of ratifications augmented, the committee recommended a procedure which was approved by the Assembly in October, 1930. Briefly stated, the procedure recommended is as follows: each year the Secretary General of the League will request every state which has signed but not ratified during the year a general convention, to declare its intention in regard to the matter. Those which have neither signed nor ratified during the past five years a convention submitted to them will be requested to inform the Secretariat whether they are disposed to do so, and in case of a negative reply, to state the reasons therefor. In the event an insufficient number of states have ratified the convention, the Council will consider the advisability of calling a new conference with a view to modifying the convention so as to remove the objection to it. In the second place, whenever the conclusion of a convention has been recommended by an organ of the League, it will prepare a memorandum explaining the objects and advantages of the convention. In case the Council approves the *projet*, it will be submitted to the various governments for their opinion. In the light of their responses and observations, the Assembly will decide whether it is expedient to request the Council to call a conference to consider the *projet*. In case the decision is in the affirmative, the Council will prepare a draft convention based on the responses received from the governments. This draft will then be submitted to each government for its opinion and observations. On the basis of these responses, the Council will decide definitely whether and when the conference shall be called.

The principal object of the procedure recommended is to secure a larger degree of consultation in advance with the various governments in order to

[4] Its report was published as a League document, No. A. 10. 1930 V. (May 9, 1930). See also the Monthly Summary of the League of Nations, Vol. X, No. 9 (Sept., 1930), pp. 171 and 203 *et seq.*

ascertain whether there is a probability that a proposed convention will receive their approval, to obtain their collaboration throughout the preparatory stage, and to avoid submitting to them definitive *projets* which as a result of the preliminary consultation there is good reason to believe would not be generally ratified. Such a procedure would also, it is believed, not only insure a more general ratification of League conventions, but would save the League from much wasted effort and expense and avoid a possible loss of prestige on its part resulting from the preparation and submission to governments of conventions of which there is little or no likelihood of ratification. By this procedure it is also hoped that the function and utility of the League as initiator of international legislation may be increased. It may be added that the committee emphasized throughout its report the desirability of more thorough preparatory work in the formulation of draft conventions, a desirability which was strongly reaffirmed by the Conference on Codification at the Hague in 1930.

JAMES W. GARNER

THE INTERNATIONAL CONFERENCE FOR THE UNIFICATION OF LAWS ON CHEQUES

The international unification of the laws on cheques was advanced many steps nearer ultimate achievement by the diplomatic conference which met at Geneva from February 23 to March 19, 1931. Officially it constituted the second session of the Conference for the Unification of the Laws on Bills of Exchange, Promissory Notes and Cheques, which met at Geneva, May–June, 1930, the results of which have already been discussed in this JOURNAL.[1]

The need for a separate conference and separate conventions for the regulation of cheques is to be found in the content of national legislation upon the subject. Systems of legislation outside the Anglo-American sphere require separate treatment for cheques because most of them regard the instrument as one *sui generis* and not merely as a demand bill of exchange drawn upon a bank or banker. On the other hand, the provisions of the Uniform Negotiable Instruments Law and of the English Bills of Exchange Act make the rules governing bills of exchange payable on demand also applicable to cheques, whereas under the various systems prevailing on the continent of Europe and in Latin America, this is not the case. In some countries, *e.g.*, in Austria, Belgium, Denmark, France, Germany, Hungary, Norway and Sweden, cheques are the subject of a special statute. Furthermore, under certain systems, notably the French and the German, a cheque is in effect an order for the repayment or transfer of funds held to the credit of the drawer, and hence gives no right arising out of the cheque itself against the drawer or prior holders. It is apparent, therefore, that the conventions elaborated in 1930 for the unification of the laws on bills of exchange would not serve to regulate cheques, even with restrictive modifications. The preparatory

[1] See Vol. 25 (1931), p. 318.