The Legal Section of the League of Nations Secretariat, 1919-1926

Rasmussen, Morten

Publication date: 2021

Document version
Other version

Document license: Unspecified

Citation for published version (APA):
The Legal Section of the League of Nations Secretariat, 1919-1926

Draft version – do not circulate without the permission of the author

Morten Rasmussen

The relationship between the League of Nations system (LoN), including the International Labour Organisation and the Permanent Court of International Justice, and international law has not yet been explored systematically by historians. It is thus not surprising that the history of the legal section of the League of Nations Secretariat has not been given any attention, despite the fact that it was the first time an international organisation included a legal service. Where the history of the Secretariat has received considerable attention among historians in recent decades, the legal section is largely absent from these new narratives.1 The main exception is work on the Permanent Court of International Justice, recently published histories of interwar criminal law as well as important new research on the mandate petition system and the registration of treaties.2 However, all these important additions to history of the LoN and international law only treat the legal section indirectly and in limited detail. There exists yet no account that focus on the institutional, social and legal history of the legal section and attempt to identify and explain its agency within the Secretariat and beyond. This chapter represents a first step towards addressing this lacuna in historiography, focusing on the history of legal section from 1919 to 1926 during which the Dutch lawyer Joost van Hamel was director.3

The chapter will analyse the origins, composition and functioning of the legal section from 1919 to 1926. It will, firstly, look at how the first Secretary-General Eric Drummond perceived the role of law in the Secretariat and how plans for a legal section were formulated and a director was found. Secondly, the staffing process of the section will be mapped. Thirdly, the composition, functioning, daily life and leadership of the section will be analysed. Fourthly, the role of the section in the Secretariat will be analysed focusing on respectively the battle for influence between van Hamel and Under-Secretary General Dionisio Anzilotti that played out in 1920-1921 and the repercussions of the Noblemaire report. Finally, the chapter will take a closer look at the policies pursued by the legal section with regard to developing international law as a system, discussing the establishment of the


PCIJ, codification, treaty registration as well as debates over the legal nature of the League of Nations. This is obviously only a first tentative step in the exploration of the legal section. Since the section gave legal advice on the entire range of the policies of the League of Nations to the Secretariat, the Council and the Assembly, to evaluate its overall influence will require a very substantial future research effort by the scholarly community.

The League of Nations and International Law

The new League of Nations system had a deeply ambiguous relationship with international law. On the one hand, American President Woodrow Wilson chose not to base his proposal for a League of Nations on a legalist, or for that sake judicialist, scheme. Instead, the central institutions of the League were to be eminently political. Through a new style of open diplomacy in international politics, the public opinion of rational liberal citizens would force governments to pursue a policy of peace and order. Wilson’s vision stood in sharp contrast to the legalist and judicialist movement in the US before the First World War, which included several prominent politicians, and it also disappointed those parts of the French government, in particular Leon Bourgeois, that wanted the core mechanism of the new universal organisation to draw upon the heritage of the two Hague conferences and build on compulsory arbitration combined with the creation of an international armed force to enforce the decisions. With close coordination of the American and British delegations, and the secret endorsement of the French Prime Minister George Clemenceau, the political vision of Wilson prevailed, despite the attempts of Bourgeois to first change and later to amend the Anglo-American approach.

On the other hand, despite the dismissal of Wilson and other great power delegations of international law and legal expertise during the Paris peace treaty negotiations, the actual peace treaties were ultimately took legalistic shape. Part of the explanation for this was the fact that the allies during the war had made the breaches of international law on the part of the central powers a central part of their propaganda and that with the coming of peace the claim for reparations based on the supposed

---

German war guilt was intricately linked to those same breaches. This meant that the Paris treaties at the fundamental level were supposed to be defendable under international law, with the result that the concrete provisions had to be given a coherent legal shape. The central role gradually acquired by the drafting committee in the negotiations furthermore reinforced this logic. The same was the result of the German response to the Versailles Treaty, which was deliberately argued within the logic of international law to expose the double moral standards of the allied powers. As a result, the League of Nations that broke with legalism had to take upon itself a number of duties from the Peace treaties that were thoroughly legalistic in shape and would necessitate an extensive use of legal techniques to be executed.

The trend towards an increasing role for international law and legal techniques in international politics were not confined to the Paris Treaties, however. The (first) globalisation of the European economy from 1870 onwards saw the advent of commercial treaties as well as international public unions that expanded both international private law and public law. In parallel, the professionalisation of international law and the transnationally organised peace movements promoted international law and arbitration as a new more rational and civilised type of foreign policy that could replace the old and dangerous power politics of the autocratic European states. The Hague conferences were the culmination of these aspirations and even if the concrete legal advances were arguably timid, the impact on the public discourse and imagination was significant. To accommodate this flurry of developments of international law, legal advisors gradually entered the foreign ministries of most great powers in the last decades of the 19th Century, leading to the establishment of proper legal services in the first decades of the 20th Century.

As the negotiations of the Paris peace conference on the Covenant of the League of Nations progressed, the nature of the Secretariat also gradually took shape. With the rejection of politically prominent candidates, such as Greek Prime Minister Eleftherios Venizelos, to accept the chancellorship of the new institution, the Conference Committee decided to create a Secretariat with primarily administrative functions. The new Secretary-General, the term preferred to reflect this change, British diplomat Eric Drummond fitted the bill perfectly and was, when appointed on 28 April 1919, given the task to develop the Secretariat from scratch in coordination with an Organisation Committee under the chairmanship of French foreign minister Stéphane Pichon. To develop the Secretariat Drummond almost exclusively relied on the advice from the inner circle of

---

the British delegation to the Paris Peace conference, in particular several of the British lawyers who had helped draft the Covenant.

Drummond quickly rejected the vision promoted by Maurice Hankey, Secretary to the Cabinet, that built on inter-allied cooperation during the war, and did not break with the way the typical international public union had been organised. Hankey had proposed that the staff of the secretary would largely be seconded by national administrations.\(^\text{15}\) Despite worries by Arthur Salter that the Secretariat without close links to national administrations would lack in status and become inefficient\(^\text{16}\), Drummond was attracted to the view published in the magazine Roundtable in March, where the leading article written by a close confidant, Philip Kerr, had advocated a truly international Secretariat constituted by civil servants under a ‘non-national’ director.\(^\text{17}\) Drummond already indicated this preference at the first meeting of the Organisation Committee on 6 May, where he was granted a limited budget and the authority to hire the first staff. Receiving similar advice from American lawyer, Gordon Auchincloss, when he came back from a characteristic fishing trip in Hampshire and Derwent, Drummond finally went public with his vision.\(^\text{18}\) In an interview in the Manchester Guardian on 31 May, he confirmed that he planned a truly international Secretariat that would function on basis of impartiality and consist of staff, men and women, chosen on basis of their excellence not their nationality.\(^\text{19}\) Drummond knew of course that such a vision could only approximate the perceived excellence of the impartial civil service of say the British Foreign Office.\(^\text{20}\)

In the end, the need to balance national representation in the Secretariat became a key challenge for Drummond. A challenge that already began at the second meeting of the Organisation Committee on 9 June, where he was forced to include political Under-Secretaries-Generals representing each of the great powers into the top leadership of the Secretariat in an obvious breach with the principle of expertise and international impartiality.\(^\text{21}\)

**Origins of the legal section**

In a Secretariat creating a new international civil service that would service the Council and Assembly and help carry out the various duties laid upon the League of Nations in the Peace Treaties, what were the role of legal expertise? Would the Secretariat need a legal service along the lines of the various legal services that had developed in the foreign ministries of the great powers? In Hankey’s

\(^{15}\) LONA.R.1455, Section 29, Document 266, Dossier 255, Hankey ‘A sketch plan of organisation’ and Letter from Drummond to Maurice Hankey 2 May 1919, LONA R1455, p. 128.

\(^{16}\) LONA.R.1357, p. 3.


\(^{20}\) Letter from Drummond to Gilbert Murray, cited in James Barros, Office Without Power. Secretary-General Sir Eric Drummond 1919-1933, (Oxford: Claredon Press, 1979), p. 61. Barros characterised Drummond’s initial vision as a myth, and it was indeed undermined by the member states. The ideals of the vision were however fervently pursued by Drummond in the early phase of League history.

preliminary plan for the Secretariat, no legal service was included. What was needed instead was the setting up of a committee to prepare the establishment of the Permanent Court of International Justice. This did not escape the sharp eyes of one of the junior members of the British delegation that drafted the Covenant, Philip Baker. In preparation of the negotiations of the League of Nations, Baker had as a new recruit in the Foreign Office drafted a list of memoranda on international law that carefully developed legal mechanisms inside the new organisation to arbitrate conflicts between the member states. Robert Cecil had rejected this approach because he believed that the League of Nations had to grow from below before it could develop more binding rules. In his comment on 9 April to Hankey’s plan, Baker pointed out that it was unfair to criticise the Covenant for abandoning international law, because ultimately the League of Nations would be able to produce international treaties in the same manner as the Hague conferences, just more efficiently. The Secretariat would for this reason, and also because article 18 required the Secretariat to publish all international treaties, need a legal section. Baker speculated that the judges of the new Permanent Court of International Justice could do the task, in order to use their supposedly ample leisure time in a rational way. In addition, the Secretary-General would need at least one Anglo-Saxon and one Continental lawyer to offer legal advice. An early memorandum by William Wiseman – the liaison between Wilson and the British government during the war - also pointed out the need for a legal affairs section under the directorship of a lawyer. This section should be in contact with a committee of eminent lawyers to address all questions of the authority and legal status of the League of Nations. The memorandum by Auchincloss argued that a legal section may be reduced in importance after the Permanent Court of International Justice had been established. In terms of key tasks, a legal section would prepare the work of the Council and Assembly and give legal advice to the other sections. By the middle of May, Drummond seems to have accepted the need for a legal section. He had also by then received the advice from Henri Fromageot, legal councillor of the French foreign ministry and member of the drafting committee of the Peace conference and the young American delegate at the same conference, Manly O. Hudson, with regard to what duties the Peace conferences imposed on the League. The legalistic nature of these duties clearly required legal advisors to be employed in the Secretariat. When he finally produced his own comprehensive memorandum on the functioning of the Secretariat on 31 May, Drummond outlined a legal section with a director assisted by 3-4 young lawyers with some knowledge of international law with both the Anglo-American and Continental schools represented. The section should provide legal advice to other sections, develop the diplomatic privileges and immunities and take care of the publication of treaties under article 19. The section should also provide the secretarial assistance to a committee of great jurists that would develop the Permanent Court of International Justice.

The next step was to hire the nucleus of the Secretariat, among these the new director of the legal section. With his key appointments in place with Jean Monnet, Raymond Fosdick, Paul Mantoux, Arthur Salter and Erik Colbain, Drummond finally turned to the new director of the legal section.

23 LONA. R.1455, p. 144.
24 LONA. R.1455, p. 133.
26 LONA R1455, p. 215.
Here the candidate for the position pretty much appeared independently. Joost Van Hamel, Professor of Criminal Law at the University of Amsterdam from 1910 to 1917, member of parliament for the liberal party from 1917-1918 and newspaper correspondent at the Paris Peace conference, had managed to establish very cordial relations with key negotiators such as Colonel House and General Smuts. Holding strong anti-German views, Van Hamel had worked diligently as editor of *De Amsterdammer* to expose German influence in the Netherlands during the war, the allied leaders probably considered him a possible asset in the neutral Netherlands. At the same time, Van Hamel had developed a pragmatic view on European security and Dutch neutrality during the war. He believed that European balance of power would continue to dominate the continent. In this context Dutch neutrality was crucial to avoid German aggression and if it did not work then ultimately it would be Britain that would save the country. However, at the same time, it was important to participate in the new League of Nations and further both the establishment of international rules that could help the European small states and the more general reconstruction of the Continent. To Van Hamel joining the Secretariat of the League would be his contribution to this great endeavour.  

Van Hamel contacted Smuts on 28 April 1919 and expressly asked for his help to join the League Secretariat, emphasising particularly his abilities in international law. Smuts contacted Drummond in early May to promote Van Hamel and described him as a ‘Professor of Law in Holland, a journalist of great capacity, and an honourable and trustworthy man’ and ‘entirely pro-Entente’. After another letter from Van Hamel this time to Drummond directly an interview was set up at Hotel Astoria in Paris on 4 June. The interview apparently went well and back in Amsterdam Van Hamel could write Drummond that he would come to London to begin his work on 17-18 June as head of the legal section. There were several tasks waiting for Van Hamel, including the precise development of the functions and role of the section inside the Secretariat, the hiring of the staff as well as the appointment of the committee of jurists that would develop the Permanent Court of International Justice, a task Drummond had been given at the second meeting of the Organisation Committee on 9 June.  

Arriving in London, Van Hamel would set up shop in room nine in Sunderland House, the former home of the Duke of Marlborough, where the staff had to engage in infights to get a good office. After talking to Monnet, he quickly drew up a memorandum on the staff, tasks and functioning of the legal section which he submitted to Drummond on 21 June. The first task outlined in the memorandum was to exchange information about law and new legislation between different countries in order to assist ongoing efforts of unification of law and international understanding in matters of legislation and jurisprudence. This should be done by registering and publishing summarily new national legislation in cooperation with existing associations such as the ‘Institut de Droit International’, the ‘Comité de Droit Maritime’, the ’Institut International Intermédiaire’. The aim was not to replace the work of such associations, but to complement their endeavour. The section should, secondly, follow developments of international law, decisions by tribunals and foreign ministries and publish these. Thirdly, the section would assist the committee under article 14 of the Versailles Treaty that would develop the Permanent Court of International Justice. It was also possible that the section

---


31 LONA.S.788. p. 35. I would also like to thank Marcus Payk for his help with tracing just how Van Hamel became legal section director.
would be in contact with the secretariat of the new Court when it was up and running. Fourthly, the development of diplomatic privileges and immunities would be dealt with by the section. Fifthly, existing and new treaties were to be published, possible by a new Treaty Section. Sixthly, the legal side of the administrative tasks of the Secretariat were crucial. Here the section would contribute to the preparatory and executive work of drafting instructions to administrative commissions such as Colonial mandates, regulation for plebiscites and disarmament commission, the settlement of disputes entrusted to the Council under article 12 and 15 as well as jurisdiction connected with the administration of Rivers (article 336) and railway clauses (article 376). In order to do this job, it was crucial that the legal section would cooperate closely with the other sections and receive copies of proposals etc. Seventhly, it was proposed that the section would assist with the official redaction of resolutions and procès verbaux of the Assembly and the Council. A member of the legal section would consequently have to be present at the meetings. Eight, the Labour commission and the International Labour Office would have to be assisted. Nine, the section would give legal advice on more ordinary questions arising out of the functioning of the Secretariat. Finally, Van Hamel suggested that the section could cover national debates on the Covenant in order to provide an overview of critiques of the latter in the member states. The organisation of the section should be flexible and without predetermined bureaucratic organisation. There might be the possibility to invite law students as volunteers for periods between six months and a year to spread international understanding in the member states.

Drummond responded positively to van Hamel’s outline. His only hesitations concerned whether the legal section should be involved in the committee on disarmament. He also concluded that he would prepare a circulaire on the need for other sections to consult systematically with the legal section.32 This circulaire was issued on 27 June, it made clear that all heads of sections should be in close touch with the legal section whenever a question of law or of treaty interpretation arose. The section should also advice on any question of drafting. All papers dealing with questions of law or treaty interpretation should be seen by van Hamel.33 With his basic vision of the legal section accepted by Drummond, van Hamel could dedicate himself to building and staffing the new section.

**Staffing the legal section**

From early July 1919, the staffing of the legal section began in earnest. In general, it was quite a remarkable group of young lawyers that Drummond and van Hamel were able to attract to the legal section in the early years. Among those who would rise to prominent careers and greatly impact the development of international law in the interwar period were Åke Hammarsköld, who became a powerful registrar and later judge of the Permanent Court of International Justice, George Kaeckenbeeck, who went on to become President of the innovative Arbitral Tribunal for Upper Silesia, Manley O. Hudson, Professor at Harvard University and later judge at the Permanent Court of International Justice and finally a very young Eeco van Kleffens, who would go on to work first in the Dutch Foreign Ministry from 1922, become its director from 1929, Secretary-General of The Hague Academy of International law in the 1930s and finally Dutch Foreign Minister from 1939-1946.

---

33 LONA.R.1270.
Nationality as well as gender balance played an important role in the appointment of staff. This may have been a direct consequence of the intervention of the Organisation Committee in early June that must have made it clear to Drummond that staff could not only be selected on basis of their expertise.  

In the case of the legal section, however, to include staff from different countries was also necessary in order to manage the different legal cultures of the member states. As a consequence, van Hamel wanted a Danish or Swedish ‘lady’ lawyer and a young Belgian lawyer if possible. Monnet would make enquiries about a possible French lawyer and van Hamel would wait for more information from Drummond with regard to a suitable American lawyer. The attempt to hire a Finnish lawyer proved in vain because the candidate had turned out to be short in qualifications. Addressing the question of representativeness directly, van Hamel believed that the balancing of nationality could also be helped if the advisory committee that would develop the Permanent Court of Justice included nationalities that had not been included in the legal section. One of the secretaries of this committee should come from Scandinavia, preferably one of the militants of the Scandinavian League of Nations Committee. In addition, another secretary could come from Brazil.

The first waves of hiring came in respectively the summer of 1919 and during the last half of 1920 after the Secretariat had moved to Hotel National in Geneva in late October. The first brought together a small nucleus of lawyers, who worked from Sunderland House. A British lawyer was clearly obligatory and the 62 years old lecturer and author of several books on international law, John Pawley Bate had already been hired directly by Drummond in mid-June. He would unfortunately die in 1921. The second choice of Drummond and van Hamel was the 33 years old American legal assistant at the Paris Peace Treaty negotiations, Manley O. Hudson, who had been deeply involved in drafting the Covenant and was highly recommended by Auchincloss. Although a swift job interview was arranged on 1 July in Paris with Drummond, and Hudson ultimately accepted the job, the latter chose to go back to the United States before beginning his job as the legal secretary of the first ILO conference in Washington from October to November 1919 in Washington. Hudson would continue to balance his engagements in the United States as Professor at Harvard University, jobs for the American government with his legal section position. He thus worked for the American government from January to April 1920 in Paris to oversee the proceedings of the Commission of Enquiry on Freedom of Communications and Transit and again from October 1920 to June 1921 he was granted a period of leave to teach at Harvard. Probably because he played a crucial role in advising Drummond and the legal section on the difficult relationship with the US, he was allowed this high degree of flexibility. From 1922 to 1930, he worked only in the legal sections during the summers, carrying out his academic job at Harvard during the rest of the year.

The third lawyer contacted would on the contrary come to London immediately and be present during the first years of the legal section. George Kaeckebbeeck was 27 years old. With a father, François Kaeckenbeeck, who worked as a journalist for different liberal papers in Brussels, he first studied law at Université libre de Bruxelles from 1911. He was mobilised in the Belgian civilian guard in 1914, but fell serious ill during the first part of the war and was ultimately transported to Britain in a convoy.

36 LONA.S.713.
of wounded. Regaining his health, two prominent Belgian lawyers, his professor from Brussels, Maurice Bourquin, and Charles de Visscher exiled at Oxford University, recommended him to Lord Curzon, who intervened on his behalf so he could enter Magdalen College at Oxford University to continue his legal studies. At Oxford he obtained a bachelor of civil law in 1916 and later a doctor of civil law in 1921.38 From 1916-1918, he was lecturer at King’s College, University of London and also worked for the historical section of the British Foreign Office and the wartime planning of the Political Intelligence Department, where he authored Book 149 of the Peace books series. In addition to this, Kaeckenbeeck joined the Belgian Foreign Ministry in the capacity of conseiller juridique adjoint in April 1918.39 It was indeed the Belgian foreign minister, Paul Hyman, who recommended him to the legal section. After meeting van Hamel on 5 July for an interview, he was hired and could began his job at the end of July.40 Although he now had to stop working as legal advisor of the Belgian Foreign Ministry, he was allowed informally to assist the latter with legal advice and expertise. A task he treasured in his own words because of his strong nationalist sentiments.41 Kaeckenbeeck only worked for the legal section until May 1922 after which he took up the Presidency of the new Arbitral Tribunal of Upper Silesia.

As we saw above, van Hamel had been searching for a female lawyer from Scandinavia. The Norwegian member of the Secretariat, Colbain, had been searching the Scandinavian countries for such a candidate, but came back empty handed. Instead, he recommended in late July, a 26 year old Swedish lawyer and diplomat, Åke Hammarskjöld. The latter came out of a Swedish upper-class family. His father Hjalmar Hammarskjöld was a lawyer, member of the Institut du droit international and a prominent politician. He had represented Sweden at the second Hague conference42 and had served as Swedish Prime Minister during the war from 1914 to 1917. Åke Hammarskjöld had experienced a strict protestant upbringing before obtaining a degree of philosophy (1914) and law (1917) at the University of Upsala, combined with several European travels to refine his linguistic abilities. He entered the Swedish foreign ministry in 1918.43 Van Hamel met Hammarskjöld on 24 July and found him such an excellent candidate that he believed that he should not merely be legal assistant but join the legal section in order to assist the work on the Advisory Committee of Jurists that would prepare the PCIJ. Since Hammarskjöld did not want to join the Secretariat before it was certain that Sweden would join the League of Nations, he ultimately only joined the legal section on 19 March 1920 and would immediately begin the task van Hamel had appointed to him. Hammarskjöld would eventually not work very long in the legal section. He started out as assistant to the secretary of Advisory Committee of Jurists the Under-Secretary General, Dionisio Anzilotti. Hammarskjöld continued from July 1920 onwards to work directly under the latter to prepare the establishment of the PCIJ. Hammarskjöld left the Secretariat to become greffier of the PCIJ in late 1921.44

38 http://www.sfdi.org/internationalistes/kaeckenbeeck/
40 LONA.S.95, p. 16 and 14.
With the four legal advisors in place or on their way, van Hamel could direct his attention towards the personal assistants he would need to do his job as director. The first candidate was a very young Dutch lawyer, Eelco van Kleffens of 20 years, whom he interviewed on 3 July. Van Kleffens worked at the Dutch consulate in London and had studied international law at Leiden University. He could draw on recommendation of the leading Dutch Professor Jonkheer Van Eysinga. Van Hamel found him an agreeable young man with fine accomplishments and excellent linguistic skills in English, French and German. Van Kleffens began his job as assistant on 20 August. He would leave the Legal Section already in March 1921 to take a job in Royal Dutch Shell. He was replaced immediately by a Dutch 28 years old doctor of law from the University of Leiden, Arnold H. van Ittersum, who would work as assistant of Van Hamel until the latter left the Secretariat and also function as (B) member of section.

To fill the post as van Hamel’s secretary, the candidate was a 39 years old Dutch-Jewish woman, Cecilia Bernardina Oppenheimer. She was born in Rotterdam but educated in both the Netherlands, Germany and Belgium in linguistics and culture. From 1911-1912 she had resided in British and took a number of language examinations. From 1912-1914, she had worked as a secretary at the Hotel d’Angleterre in Nice. Coming back to the Netherlands during the war she worked for the Dutch peace movement, the Nederlandsche Anti-Oorlog Raad, and was there particularly interested in the League of Nations movement. Van Hamel decided to hire her, and she became his personal secretary from 1 August 1919 to October 1920. With the move of Oppenheimer to the Department for Treaty Registration, Van Hamel needed a new secretary. He chose this time an unmarried British woman of the age of 31, Ethel Fryer Paczynski, who joined the Secretariat on 1 July. Paczynski had not received a university education, but instead secretary training, but was recommended by another female secretary in the Secretariat. Van Hamel would eventually become very happy with Paczynski in the years that followed. She went on to become Secretary of the Section from 1 March 1924 and stayed for the entire life of the section until January 1940.

Since Hudson only turned up at the offices of the legal section from May to September 1920, and Hammarskjöld first joined the committee preparing the Permanent Court of Justice that would convene in The Hague in June and July, the legal section at the beginning more of less consisted of van Hamel, Bate, Kaeckenbeeck, Van Kleffens and Oppenheimer. As the number of tasks grew, there was a need to expand the staff. In January 1920, van Hamel wrote to Drummond that he needed another legal assistant that could lead the new Department of Treaty Registration. Since the candidate was to be Spanish, Drummond asked the Spanish Ambassador in London, Don Alfonso Merry del Val, in order to identify a candidate. The latter returned with the name of Don Juan Teixidor y Sanches from the Spanish Legation at Berne. He had acquired an experience of working with treaties, having done so earlier in the Spanish Foreign Ministry. Teixidor y Sanches was 28 years old fluent in English, French and German, and after Drummond and van Hamel met him in Paris and he accepted to join the legal section on 1 June. He would stay head of Treaty Registration until April 1931, when he was moved to the Political Section. He was soon joined by two female assistants in the new department, Oppenheimer in October and later in June 1921 a 30-year-old Austrian woman, Margareta Lammash, as senior assistant.

---

46 LONA.S.845, p. 55, 41.
47 LONA S.696. 1990.
48 LONA.S.891, 89, 84, 83, 71, 62.
A replacement for Hudson also needed to be found when Drummond accepted the latter’s request for a six month leave from October 1920 to June 1921. The choice fell on another American from St. Louis, just like Hudson, the 27 years old John Raeburn Green. Green had graduated from Westminster College at Fulton, Missouri in 1914 and afterwards obtained a law degree from Harvard University in 1917. After having spent a year and a half as assistant solicitor at the Department of State, he founded his own law firm Hudson, Green & Henry in St. Louis in 1919. Unsurprisingly, it was Hudson that had proposed Green as replacement, who beyond his legal qualifications handled French well and was a ‘pleasant, agreeable and tactful person’. Van Hamel accepted Green solely based on Hudson’s recommendation.49

In November 1921 two new lawyers started in the section. One was a new British lawyer that could replace Bate and who would go on to become the leading figure of continuity in the section, namely Hugh McKinnon Wood. Wood was 36 years old when he joined, fluent in his mother tongue and excellent in Latin and ancient Greek, but only ‘good’ in French and with some knowledge of German. He was educated at Balliol College, Oxford University. He was the oldest son of Thomas McKinnon Wood, who was a liberal politician and Secretary of Scotland between 1912 and 1916 as member of H. H. Asquith’s cabinet. During the Peace conference he served as British representative in the Reparations committee.50 Already from June to December 1921, he was lent to the Economic and Financial Section. McKinnon Wood would become a most trusted man of Van Hamel who would deal with many of the most difficult legal questions.51 The second was a French lawyer recommended to the Secretariat by Léon Bourgeois. At 59 years old, Gustave Henri Lamba was significantly older than the average of the section. He had been professor of law, lawyer and secretary of the Association France-Grande Bretagne founded in 1916 and was well versed in English. Lamba left the legal section in 1925 due to age.

Finally, in September 1922 a 28-year-old Belgian jurist, Joseph Nisot, was hired to replace Kaechenbeek. He was Doctor of Law having studied in Ghent, Cambridge, Geneva and Freiburg but was linguistically confined to French with his English not quite fluent. Form 1919-1922 he had worked in the legal department of the Belgian Foreign Ministry from 1919-1922. Nisot remained in the legal section until 1931 and left the Secretariat in 1940.52

Beyond this core staff of legal advisors and secretaries, there was a group of women who did the work as Assistants, Stenographers, Bilingual Shorthand Typists, Shorthand typists and secretaries. These included: Assistant Secretary and Stenographer Claire V. La Touche (1920-1922: British-Dutch), Shorthand Typist Dothory Jacobs (1920-1921), Shorthand Typist Emilienne B-Racq-Marion (1921-1931), Shorthand Typist Alma Janet Schibli née Raisin (1921-1926), Secretary and Shorthand Typist Jeanne Michel (1922-1943: French), Junior Assistant Margareth Elisabeth Clara Kempen (1922-1926: Dutch), Shorthand Typist Marian Jackson (1922-1922), Bilingual Shorthand Typist Aline Alexandre (1922-1926), Junior Assistant Ludovica Marchet (1923-1929), and Senior Assistant Tatiana de Peganow (Lithuanian: 1924-1927).

Building and leading the legal section

49 LONA.S.783.28-29, 25.
51 LOONA.S.822bis823, p. 3, 16, 52, 66, 84.
52 LONA.S.842
Let us take a closer look at the composition of the legal section under van Hamel’s leadership from 1919 to 1925 at the level of legal specialists. During this period the legal section consisted of a director, a personal assistant and four to five members of section. Van Hamel was of course director through the entire period but had two assistants first van Kleffens who was replaced by van Ittersum in March 1921. The five positions of members of section were occupied by Pawley Bate (replaced with McKinnon Wood in December 1921), Kaeckenbeeck (replaced with Nisot, September 1922), Teixidor y Sanches, Lambda (from November 1920), Hudson working June to September 1920 (with Green covering the job from October 1920 to June 1921) and then from 1922 only the summers and Hammarskjöld who ranked as member of section from 1920 to 1922, even if he only worked as part of the legal section until July 1920. van Ittersum would become (B) member of section in 1922, when the departure of Hammarskjöld had opened up a position. What is perhaps most striking is the high degree of flux that characterised the section with the first generation of legal specialists quitting and new ones getting hired. We will discuss why this might have been the case below. In addition, the extent to which the replacements were of the same nationality as the specialists leaving is quite remarkable. Often national governments were even involved in the hiring process, Nisot for example was proposed by the Belgian Foreign Ministry.

There is no doubt that the legal section lost significant talent by the departure of Hammarskjöld, van Kleffens and Kaeckenbeeck. The new edition of the section that emerged around 1922 was less talented, but perhaps more manageable for van Hamel. The service was organised without too much specialisation or decentralisation, with the exception of the task of Treaty registration which Teixidor y Sanches handled. Van Hamel preferred that ‘the opinions and conceptions of the responsible director form(ed) an essential element in most of the work that leaves the Section’. This meant that the assistant of the director would be deeply involved in the work almost on par with the members of section. In the second edition of the sections that emerged in 1922, van Hamel thus used van Ittersum, whom he greatly appreciated, and McKinnon Wood as the closest collaborators to run the section. Lamba did not work quite to the satisfaction of Van Hamel, who did not find he could fully trust his legal judgment.

In terms of education, the members of section had all studied law at good or occasional famous universities, most mastered at least English and French expertly, and often also German, besides their native language. They were of course also all men, although the hiring strategy of the legal section had involved finding a female lawyer. In terms of class, they were all either from the bourgeoisie or even the upper class like Hammarskjöld. From the private archives we have access to it becomes clear that they were all motivated to work in the world’s first universal organisation. The age profile of the section was very young, not surprising for a brand new organisation like the Secretariat. The director van Hamel was around 40 years old, but Hammarskjöld, Kaechenkeeck, Ittersum, Teixidor y Sanches, Green, Van Kleffens and Nisot were all in their 20s, Hudson and McKinnon Wood in their mid-30s and only Pawley Bate (62) and Lambda (59) standing out as the older and more experienced colleagues. Interestingly, most of the women employed in the section, confined as they were to be secretaries, assistants, stenographer or shorthand-typists were unmarried and in their 30s.

53 LONA.S.842. 127.
54 LONAS.800, Letter Van Hamel to Drummond on 17 March 1923.p. 9
55 LONA.S.812, p. 72.
56 LONA S.842. Report by van Hamel to Drummond on 27 August 1923.
57 LONSEA data provided by Haakon Ikonomou.
From the letters between members of the legal section, the social life of the section seemed enjoyable enough. The young assistant Van Kleffens for example was apparently on friendly terms with all the members of the section and greatly appreciate the ‘very delightful’ newcomer McKinnon Wood in a letter Hudson in a letter from 11 January 1921. Van Kleffens were also as we shall see in a moment close to Hammarskjöld, the two of them were after all the youngest members of the section. A similar tone can be detected from the letters of Hammarskjöld and Hudson to various members of the service, including Van Kleffens, Green and Kaechenbeeck. Several strong relationships developed beyond the time spent together in the section. From Green’s diary it is also easy to follow how he became close to McKinnon Wood, for example during his year at the section.

Van Hamel was, however, not well respected inside the section. With many young members of the legal staff, it is perhaps not surprising that van Hamel chose a top-down type of leadership where his opinions shaped the output of the section. But his personality, his somewhat fragile expertise in international law and his occasional lack of judgment did not help him gain the respect of his employees. Hammarskjöld and van Kleffens, as the two youngest members of the section, quickly formed a close attachment and exchanged strongly worded anecdotes of the arrogant and pushy behaviour of van Hamel that only seems to have been topped by his incompetence.

One episode that Hammarskjöld highlighted was van Hamel’s behaviour at the opening of the Advisory Committee of Jurist in The Hague on 16 June 1920. Here van Hamel, who was keen to influence the committee despite the fact that Anzilotti had been given the responsibility to run it as secretary, managed to oust French committee member Henri Fromageot from his hotel room at Des Indes in order to get the room closest to the President of the Council, Leon Bourgeois, who became furious when he later heard about the episode. During a luncheon, van Hamel further told Bourgeois that he wanted to be part of the committee meetings and managed to get him to promise to ask Drummond for this. In the end, van Hamel did not succeed in interfering with the work of the advisory committee. When he came back to London, van Kleffens wrote back to the Swede that van Hamel had written a long memorandum to Drummond’s to justify his trip to The Hague, that made van Kleffens genuinely ‘seasick’.

Another example of how van Hamel was less than successful due to a mixture of his awkward personality and general incompetence, in the eyes of the two youngsters, was the London meeting of the Åland islands crisis in July. Hammarskjöld had been intimately involved in the crisis as a back channel through which the Swedish government could ask the British government to discretely bring up the crisis in the League Council and had tried his best to educate van Hamel on the complex history of the islands during lunch in the Hague. Van Kleffens covered the London Council meeting on the crisis in all details and was critical of the role played by van Hamel and the legal advice he was offered. ‘Van Hamel is busy all day, confers with Mr. Balfour (and does not fail to tell me!), and must feel very prominent.’ This was much to Hammarskjöld’s regret: ‘Allow me to say that I find it almost Gespensterisch to think of van Hamel busybodying with the Åland question, of which I am sure that he does not know the very first word: the whole procedure over there is more or less

58 Archive of Green, box 93, Diary.
macabre.’ On 14 July, van Kleffens had also had enough and told his friend that he also wanted to quit when the opportunity offered itself. The friction with van Hamel was, however, slight less now but he still felt that the workload demanded was excessive and without the holidays to which they were entitled.

To Hammarskjöld the break with van Hamel was just a matter of time it seemed. What finally provoked it was an offer Hammarskjöld received from a legal journal to author an article on the Air Navigation Convention. Van Hamel was actually positively inclined, because he also from time to time authored newspaper articles. However, Comert and Monnet opposed the idea because members of the Secretariat should not publish on questions with political connotations. When Drummond backed this view, van Hamel wrote Hammarskjöld a letter in which – according to the latter – ‘he scolded me in terms which he had tried to make polite for not having asked for his authorisation…’. Hammarskjöld answered him ‘to match’. A few days later on 16 July, Hammarskjöld wrote to Drummond and told him he could not continue to work under van Hamel. ‘I cannot go back to that life of daily humiliation necessary to maintain the appearances of good relations’. He had in fact made up his opinion a few days before the crisis related to the article, when he had been informed by Anzilotti about his plans to create a special Bureau under his leadership, which included Hammarskjöld, to handle the links between the Secretariat and the PCIJ. Drummond at first insisted that Hammarskjöld had to stay in the legal section and find an accommodation with van Hamel. In the end, however, Hammarskjöld would work directly under Anzilotti’s leadership in his remaining time in the Secretariat. And van Kleffens left the legal section when the first opportunity offered itself in the shape of Royal Dutch Shell.

It was not only Hammarskjöld and van Kleffens who found van Hamel lacking in leadership and competences. In his diary Green also describes his dislike of the director. While, we do not have the primary sources to establish why Kaechenbeeck also chose to leave the legal section, it seems clear that van Hamel’s personality, lack of competence and leadership style was probably the most important factor behind the change of personnel in the legal section in 1921-1922. In the wider Secretariat, van Hamel was apparently also not a popular man. When van Hamel tried to re-enter the Secretariat as director of the disarmament section after having been High Commissioner of Danzig, the members of the hiring committee only had a smile for his candidature.

### The role of the Legal Section in the Secretariat I: The conflict between van Hamel and Anzilotti and the Noblemaire report

The role the legal service would play in the Secretariat was initially defined by the memorandum of June 1919 and Drummond’s *circulaire* of 27 June. However, in the autumn of 1919 Drummond hired

---

63 Äke Hammarskjöld archive L.175.482. Letter from Hammarskjöld to van Kleffens, 9 July 1920.
64 Äke Hammarskjöld archive L.175.482. Handwritten letter from van Kleffens to Hammarskjöld, 14 July 1920.
65 Äke Hammarskjöld archive L.175.482. Handwritten letter from van Kleffens to Hammarskjöld, 9 July 1920.
66 Äke Hammarskjöld archive L.175.482. Letter from Hammarskjöld to van Kleffens, 13 July 1920.
68 Äke Hammarskjöld archive L.175.482. Letter from Hammarskjöld to van Kleffens, 9 July 1920.
69 ??
70 Archive of Green, box 93, Diary under February 19, 1921. He describes van Hamel: ‘very pleasant but I dislike him’.
the famous international jurist Dionisio Anzilotti, as Under-Secretary General to negotiate the statute of the Permanent Court of Justice, the legal section’s most important initial task in the field of international law. This decision would create continued infight over the role of van Hamel and the legal section versus the new Under-Secretary General in dealing with legal questions in the Secretariat from 1919 to 1921. There was, as Hammarskjöld wrote to van Kleffens, ‘a sort of jealousy between van Hamel and Anzilotti and Anzilotti and van Hamel.’

This ongoing strife undermined the internal handling of legal questions in the Secretariat, but it also involved different views on international law held by respectively van Hamel and Anzilotti, as we shall see in the final section of the chapter.

With most of the leadership of the Secretariat in place by the summer of 1919, Drummond still needed to hire an Italian Under-Secretary General and the person recommended by the Italian Prime Minister, Vittorio Emanuel Orlando and Foreign Minister Sidney Sonnino, was Anzilotti who had been the legal advisor of the Italian government during the Peace treaty negotiations and was a recognised expert in international law, Professor at the University of Roma, member of the Institut de Droit International (since 1908) and member of the International Court of Arbitration of The Hague. When Drummond first approached Anzilotti on 10 July 1919 the aim was to hire him simply as Under-Secretary General in order, as he explained in a second letter to develop the procedure and supervise the First Assembly. Anzilotti’s response was not encouraging he wanted to work with legal questions and on 23 August declined the offer since van Hamel as director of the legal section was already to be in charge of all questions of international law. Drummond did not take no for an answer, however, and after Anzilotti had met Jean Monnet in Paris in order to discuss the details in late October, he finally accepted to become Under-Secretary General with the responsibility to establish the Permanent Court of International Justice.

From the moment, Anzilotti took up his duties on 11 January 1920 trouble with van Hamel was brewing. The work of establishing the advisory committee had begun in the autumn of 1919. However, with the arrival of Anzilotti, van Hamel saw himself being sidelined on this absolutely central aspect of defining the nature of international law in the post-war period. He put quite some pressure on Drummond to still be involved. Not only did he manage to get a private guarantee from the Secretary-General that no other function would be taken away from the legal section, he also managed to secure a spot in the advisory committee for a Dutch representative, his uncle Bernard Loder, and secured that The Hague would become the venue of the committee. Preparations for the work of the advisory committee had also already been undertaken by Bate and Hammarskjöld, who co-authored a memorandum where the position of the legal section was outlined, a position in the end backed by both Drummond and Anzilotti.

---

72 Åke Hammarskjöld archive L.175.482. Letter from Hammarskjöld to van Kleffens, 6 July 1920.
73 LONA.S.703. Letter from Drummond to Anzilotti, 10 July 1919 and Letter from Anzilotti to Drummond 4 August 1919.
74 LONA.S.703. Handwritten letter from Anzilotti to Drummond, 24 August 1919.
75 LONA.S.703. Memorandum by Drummond, 30 October 1919.
76 Van Hamel had already in July 1919 asked Hudson if he could participate in the work of the advisory committee as secretary. Manley Hudson archive, Contingent 1, II LON, 31-6. P. 8
77 Åke Hammarskjöld archive L.175.477, Re Organisation of International Committee of Jurists for Plans of Internatonal Court. 16 February 1920.
When the Advisory Committee was launched in The Hague on 16 June, van Hamel did what he could to mingle with the most prominent personalities present, as we saw above, even though he had no formal role to play in the advisory committee. Throughout the work of the Committee van Hamel also tried to get his hands on the minutes, but Anzilotti denied him access. Instead, Hammarskjöld was asked by write informal reports of the work of the committee so van Hamel could follow the progress made. Van Hamel continued attempts to obtain information and interfere with the work of the committee led to the gradual estrangement of not only Anzilotti, but also Hammarskjöld.

The turf-war between van Hamel and Anzilotti continued during the autumn of 1920. If van Hamel had done his best during the work of the advisory committee to annoy Anzilotti, the latter’s attitude to van Hamel was also characterized by a feeling of superiority which probably not facilitated cooperation. Anzilotti had at the Council meeting in San Sebastian in early August 1920 been given the task to assist the president of the Council, Bourgeois, to prepare for the Council meeting in Brussels in October, which would take a decision with regard to the draft statute prepared by the advisory committee. Anzilotti managed to keep van Hamel at bay despite a continuous stream of proposals from the latter, but the unclear division of competences led to a continuous quarrel between the two. According to Anzilotti the consequences were serious for the reputation of the Secretariat, since he experienced several times during the First Assembly from 15 November to 17 December that he was made responsible for positions and opinions prepared by the Legal Section of which he had never been informed. Writing some months later in May 1921 to his long-time friend Arturo Ricci Busatti, who had been member of the advisory committee, Anzilotti, argued that it would be a service to the Legal Section and the Secretariat if van Hamel stepped down and was replaced by a more ‘modest man’. In a report to the Italian Foreign Minister written shortly after, Anzilotti explained that van Hamel was not a jurists in the true meaning of the word, did not have the right temperament and had no real expertise in international law. Anzilotti thus had several times to intervene to correct major mistakes made by van Hamel according to his report.

From July 1920 onwards, Anzilotti attempted to consolidate his position in the Secretariat. Writing to Dummond on 12 July, Anzilotti proposed to establish a Bureau under his leadership that would handle the work related to the advisory committee until the Council and First Assembly had made a

---

79 Åke Hammarskjöld archive L.175.500 . Letter from Hammarskjöld to van Kleffens, 28 June 1920.
80 These reports can be found in the Åke Hammarskjöld archive L.175.500 and L.175.480 and constitute a deeply biased but also remarkable source to the meetings of the committee.
81 In a report to the Italian foreign minister Marquis Imperiali from 16 June 1921, Anzilotti in hindsight wrote: Non mi nacessi le difficoltà che poteva sorgere dal fatto di non avere io la direzione della sezione legale. Debbe dire però che varie circostanze contribuivano a farmi ritenere che le difficoltà non sarebbero state gravissime né impossibili ad eliminare. Prima di tutto entrando io nel Segretariato come Vice Segretario-Generale mi trovavo immediatamente in una posizione superiore a quella del direttore della sezione legale. Poi il fatto stesso che il Dr. van Hamel non aveva una posizione riconosciuta fra i cultori del Diritto Internazionale mi pareva dovesse render facile una collaborazione di cui egli per il primo avrebbe sentito il desiderio e il bisogno. Finalmente io pensavo che se potevo anodare col Dr. van Hamel relazioni personali amichevoli la nostra collaborazione sarebbe avvenuta nel modo più semplice e facile. Entrato nel Segretariato non tardai ad accogermi che la mia Speranza di poter soprintendere al lavoro giuridico o quanto meno cooperarvi era del tutto infondata. nzzilotti archive, box 13, Memorandum by Anzilotti to the Italian foreign minister, 16 June 1921.
82 Anzilotti archive, box 13, Memorandum by Anzilotti to the Italian foreign minister, 16 June 1921.
83 Anzilotti archive, box 20, Letter from Anzilotti to Ricci Busatti, 10 March 1921.
84 Anzilotti archive, box 13, Memorandum by Anzilotti to the Italian foreign minister, 16 June 1921.
decision on the draft statute.\textsuperscript{85} Afterwards, the Bureau would continue to handle the relationship between the new PCIJ and the Secretariat as well as the plans for repeated international conferences on the codification of international law that the advisory committee had proposed. The proposal was a natural continuation of the tasks that Anzilotti had first been given by Drummond when entering the Secretariat, but it would also, as van Hamel quickly pointed out when he was saw the proposal, create a danger of overlap and would permanently split the handling of questions of international law between two separate departments.\textsuperscript{86} At first, Anzilotti after discussing his proposal in person with Drummond more or less assumed that it had been accepted and made clear that he wanted Hammarskjöld to run the Bureau under his leadership and also named the secretaries he wanted to hire.\textsuperscript{87} Hammarskjöld had also, as we saw above, made it absolutely clear to Drummond that he did not want to work again under van Hamel’s leadership, but instead believed Anzilotti’s proposal allow him to continue his service in the Secretariat.\textsuperscript{88} However, Drummond’s position was at best non-committal and although he allocated the resources Anzilotti asked for during the autumn of 1920, he made clear that ultimately a decision could only be taken when the position of the PCIJ was fully clarified, adding that he was quite worried that a new Bureau would create problems in relation to the Legal Section.\textsuperscript{89} An attempt by Drummond to let van Hamel and Anzilotti solve the organizational questions themselves came to naught, when Anzilotti rejected van Hamel’s idea to set up a committee with both of them and Hammarskjöld to deal with the relationship with the PCIJ. Anzilotti could not accept to work, as he characterized it, under the instructions of van Hamel.\textsuperscript{90}

In Anzilotti’s view his situation in the Secretariat deteriorated during the Autumn of 1920. Coming back from The Hague to the Secretariat in London and then Geneva, showed him how little influence he exercised on the general legal questions compared to van Hamel, whom he found ill qualified to do the job. In January 1921, he therefore had prepared to discuss the matter with Drummond, when the Secretary-General decided to reorganize the Secretariat by dividing the daily leadership between himself and Jean Monnet, who was given the task to lead all the technical sections. To Anzilotti such an Anglo-French dominance was an affront to Italy and himself, but he believed nevertheless it opened the possibility to confront Drummond and ask to grant him the leadership of all legal questions in the Secretariat. Drummond, however, privately admitted that he had promised van Hamel that the legal section would stay independent of Anzilotti and could consequently not accept the proposal of the latter. With the Noblemaire report on the financing and organization of the Secretariat coming, Anzilotti decided to wait.

The report was disappointing, however. It recommended to reduce the number of Under-Secretary Generals from four to two and, as Anzilotti understood it, to downgrade the legal section to a mere service. Complaining to Ricci Busatti in a private letter, Anzilotti decided that this was it, although he dryly remarked that the downgrading of the legal section could serve some good if it meant that van Hamel leave. The role of law in the Secretariat was simply not prioritized, and as a consequence he wanted to hand in his resignation.\textsuperscript{91} The only thing that may entice him to stay was if he was given

\textsuperscript{85} The proposal is first mentioned here: Åke Hammarskjöld archive L175.500. Letter from Hammarskjöld to van Kleffens, 9 July 1920 and then comes here: LONA1304. Leyyer from Anzilotti to Drummond, 12 July 1920.

\textsuperscript{86} Åke Hammarskjöld archive L.175.479, Letter from van Hamel to Drummond, 7 August 1920.

\textsuperscript{87} Åke Hammarskjöld archive L.175.479, Letter from Anzilotti to Drummond, 9 August 1920.

\textsuperscript{88} Åke Hammarskjöld archive L.175.500, Letter from van Hamel to Drummond, 16 July 1920.

\textsuperscript{89} Åke Hammarskjöld archive L.175.479. Letter from Drummond to Anzilotti, 22 July 1920 and Letter from Drummond to Anzilotti, 4 August 1921.

\textsuperscript{90} Anzilotti archive, box 23, Letter from Anzilotti to Drummond, 7 October 1920.

\textsuperscript{91} Anzilotti archive, box 20, Letter from Anzilotti to Ricci Busatti, 10 March 1921.
single responsibility of the legal questions in the Secretariat and the status of director would not be downgraded but rather placed above section directors. On 10 June 1921, Anzilotti submitted a letter of resignation to Drummond. He referred to the Noblemaire report that proposed to transform the legal section to a service and its director to the legal advisor of the Secretariat who would also be responsible for the link to the PCIJ. Whatever the speed with which the reform might be implemented, Anzilotti believed that it did not make sense for him to stay. Anzilotti had a five-year contract and in the end stayed on until he was elected judge of the PCIJ in September 1921 by the Second Assembly.

In the end, van Hamel consequently managed to fight off the attempts by Anzilotti to weaken his position. The Noblemaire report adopted by the Assembly on 2 October 1921, however, also threatened his own position. The report had both proposed to create a Legal Advisor’s branch that would give legal advice to the Secretariat and act as a channel of the communication with the PCIJ. This new branch would then replace the legal section. In addition, the report had also recommended that directors should not have long contracts because this would impede on the aim to have a have different nationalities represented at the leadership level of the Secretariat. As a consequence, Drummond wrote van Hamel in January 1922 that he could not offer him a further period, but that he of course could be eligible for the position as legal advisor. In the end, the report’s plan for reducing the number of sections were not followed and van Hamel and the legal section continued in the same role until the resignation of the latter in February 1926 to become High Commissioner in Danzig.

The Role of the Legal Section in the Secretariat II: The policies on the nature of international law

Although the Peace Treaties and the covenant for the League of Nations did not follow a legalistic template, there was little doubt that introducing a new universal organization to promote peace and cooperation in the world would fundamentally change the system of international law. At the heart of the League was an institutional system based on public diplomacy, including the registration of treaties (including secret treaties) (article 18), political conflict mediation (article 15) as well as a new world court for legal conflict resolution (articles 12-14). In addition to this, it was clear, as convincingly argued by Philip Baker in the Spring of 1919, the League of Nations (and the International Labour Organisation) would also facilitate the negotiations of future treaties and conventions that would greatly expand the reach international law. Finally, the pre-war approach of international conferences of codification could also be continued to increase positive international law. Together these different features of the League of Nations system would to a large degree shape the future system of international law and consequently the way they were conceived and designed mattered greatly. In this last section we shall briefly explore what kind of policies van Hamel and the legal section developed on the establishment and nature of the PCIJ, the early policies on codification, treaty registration as well as the legal nature of the League itself. What kind of system of international law did the legal section pursue and to what extent did it manage to carry through its vision in the complex League system that was seriously constrained by member states interests?

With regard to the establishing the PCIJ, the main task of the legal section was merely to facilitate the work of the experts in the advisory committee of jurists. However, van Hamel and the legal section

92 Anzilotti archive, box 13, Letter from Anzilotti to Drummond, 10 June 1921.
94 LONA.S.788. Letter from Drummond to van Hamel, 21 January 1921.
went far beyond that by submitting a long memorandum plus a questionnaire, prepared by Bate and Hammer, which offered an analytical starting point and a structure for the work of the committee. The memorandum offered a clear argument about the nature of the new world court that was by no means uncontroversial because it represented a quite selective reading of the relevant articles in the Peace Treaty. The conclusion was that the PCIJ should be a court of justice with compulsory jurisdiction and not a new court of arbitration. The memorandum was inspired by the thinking of Elihu Root, the former American foreign secretary, that would dominate the committee and the proposal of the five neutral powers (Netherlands, Switzerland and the Scandinavian countries) from February 1920.95 However, it also went further, in its instance on compulsory jurisdiction, than the European great powers were likely to accept. There is little doubt that the input of the legal section played a relatively small role in the work of the advisory committee, but the result nevertheless largely followed the memorandum with regard to the nature of the PCIJ and compulsory jurisdiction.96

It was especially, the notion of compulsory jurisdiction that provoked the European great powers, and in particular the British government, which met in Brussels in October 1920 to decide on the draft statute of the advisory committee based on a report by Council president Bourgeois. The Council version of the draft statute would then be sent to the Assembly for the final decision. Anzilotti assisted Bourgeois in his work and played the key role during the Council meeting helping Drummond to find a compromise that was acceptable to the British government. At the Council meeting, Anzilotti and Drummond accommodated the British government by accepting to remove compulsory jurisdiction which was also opposed by France and Japan and furthermore moved the design of the court in the direction of arbitration.97 During the autumn, van Hamel consistently pursued a different line than Anzilotti on most questions. They disagreed over the extent to which the PCIJ should be connected to the Secretariat and the legal shape of the Assembly decision on the draft statute.98 At the Council meeting, van Hamel wanted a much more aggressive stand by the Secretariat and propose to save compulsory jurisdiction by establishing parallel rules in the statute for both compulsory jurisdiction and voluntary jurisdiction, but Anzilotti did not allow this proposal to enter the negotiations.99 When the amputated draft statute reached the Assembly, Anzilotti again coordinated with Bourgeois and several members of the advisory committee, who participated as member state representatives, to secure the acceptance of the statute without seriously modifying the proposal by the Council. However, this time neither the great powers, nor the Secretariat, could control the dynamics of the negotiations. A majority of the Third Committee eventually supported the stubborn Brazilian member, Raoul Fernandez, who had also participated in the advisory committee and wanted to reinsert compulsory jurisdiction into the statute. The compromise developed was not very far from

---

97 Ibid, 94-98.
98 On the legal form of the Assembly decision consult: LONA 1300 21.7488.859 Memorandum by Commendatore Anzilotti re Permanent Court of International Justice (form of decision establishing this Court). 18 October 1920. Van Hamel had produced a less precise proposal before LONA 1300 21.7488.859 Untitled memorandum by Van Hamel, 16 October 1920. With Van Hamel had proposed to link the institutions in various ways including having the secretary-general nominate the greffier. Papers of Léon Bourgeois, 29PAAP-43, Untitled memorandum by Van Hamel.
99 Archive of Åke Hammarskjöld.L.175.480. Letter from Van Hamel to Anzilotti, 26 October and Letter from Anzilotti to Van Hamel, 6 November 1920.
van Hamel’s proposal. Compulsory jurisdiction became a voluntary option for the countries that signed the statute.\textsuperscript{100}

To conclude, Van Hamel and the legal section had been quite progressive in their view on how the PCIJ should be designed largely following the position of Root and the European neutrals. During the autumn of 1920, when Anzilotti and Drummond focused on accommodating Britain and the Great powers, van Hamel continued to push for a more progressive line for the Secretariat, but to no avail.

I still need to analyse:

The early history of codification (1919-1925)

Treaty registration

The legal nature of the League (discussions whether the LoN had legal personality or sovereign powers)

All in all, this section identifies the different policies of the legal section on these different parts of international law to finally establish what kind of legal thinking was done by van Hamel and the section. However, my guess is that we will also find the extent to which the policies of the legal section had to adapt to member state interests and Drummond’s wish for the Secretariat to keep a low profile when it came to questions with a political dimension.

CONCLUSION

The preliminary conclusion will be presented at the conference.

\textsuperscript{100} Karin Van Leeuwen and Morten Rasmussen, A Political and Legal History of the Advisory Committee of Jurists and the Foundation of the Permanent Court of International Justice, in Sean Morris (ed), Transforming the Politics of International Law: The Advisory Committee of Jurists and the Formation of the World Court in the League of Nations, (Routledge 2021), 99-104.
Legal section in 1924-1925
First row from the left: Gustave Henri Lamba, Joost van Hamel, Hugh McKinnon Wood and Juan Teixidor y Sanches
Back row from the left, four unidentified women, Baron A. H. Van Ittersum, Cecilia Oppenheimer, unidentified woman and Joseph Nisot.

Legal Section 1929 – From the Archive of Ittersum.
Standing from the Left: Nisot, NN, Teixidor y Sanches, van Ittersum, Hugh McKinnon Wood
Sitting down: -- J. A. Buero - ??