It may have seemed strange to some that the subject of law should be discussed in a Pan-American scientific congress. But Lord Bacon taught us that progress in science must depend upon a careful investigation and observation of facts, and the classification of them when observed. From this study we deduce the principles which underlie the facts and thus lay a solid foundation for further investigation. His maxim is, "Prudens quaestio dimidium scientiae."

It follows that we may justly speak of the science of law. That science as it exists among men is yet incomplete and imperfect; but Hooker assures us: "Of law there can no less be acknowledged than that her seat is in the bosom of God, her voice the harmony of the world. All things in heaven and earth do her homage—the very least as feeling her care, and the greatest as not exempted from her power."

The system of law, and especially of international law, is still in a condition of evolution. Like the common law of England and America—may we not say, like the common or customary law of all nations?—it is a growth. Whatever codes may have done to clarify or systematize, careful investigation will show that they are founded upon a customary law which has gradually developed from a sense of need, guided by a sense of justice, which is to be found to some degree in every human breast. For example, the famous ordonnance of Louis XIV was a wise maritime code. It was based upon the customary maritime law of the Mediterranean, which was then the sea upon which the maritime commerce of the world was principally conducted. In like manner international law as it exists today is the outgrowth and development of those re-

quirements which spring naturally from relations existing between nations. This development has been guided in large measure by wise and thoughtful men. It has been promoted by international congresses and finds its expression, not only in the writings of jurists, but in the treaties by which nations have sought to lay down rules to regulate their conduct toward each other. A very important part of this development has been the result of international congresses which have met, not to legislate, but to confer.

The members of these congresses form in a very just sense the aristocracy of the nations. They are generally public-spirited men, who give their services to the commonwealth, not for fee or reward, but from a sense of duty and an inspiration for something better and more just than anything yet achieved. Any agreement reached by these delegates has a powerful influence upon public opinion. It may not at once crystallize into legislation, but it has a powerful tendency to promote wise legislation. To the impatient soul the results often seem long a-coming, but optimists like myself console ourselves with the words of the Hebrew prophet: "Though it tarry, wait for it, for in the end it will come, it will not tarry."

For these reasons the framers of the program of this congress have asked me to present a paper on the four Pan-American congresses. The first of these was held in Washington, upon the invitation of President Harrison and his Secretary of State, Mr. Blaine, in the years 1889 and 1890. The second was held in the City of Mexico in 1901-2 upon the invitation of President Diaz and his minister of foreign affairs, Senor Mariscal. The third was held in Rio Janeiro in 1906 upon the invitation of the Brazilian Government through its minister of foreign affairs, Baron do Rio Branco. The fourth was held in Buenos Aires in 1910, upon the invitation of the Argentine Republic through its minister of foreign affairs, Dr. Bermejo.

The second congress was held during the administration of Theodore Roosevelt, when John Hay was Secretary of State. The third was held during Mr. Roosevelt's second administration, when Elihu Root was Secretary of State. The fourth was held when William H. Taft was President and Philander C. Knox was Secre-
tary of State. These distinguished representatives of the United States did all in their power to make the conferences a success. In this the other Republics of North America, Central America, and South America co-operated.

It is now for me to lay before you some account of their activities; but before I do this let me remind you that the conference at Washington was not the first attempt to promote cordial co-operation between the Republics of America. As long ago as July, 1822, a treaty was negotiated between Colombia and Chile in which it was proposed to call a congress of the new Republics. In 1825 the ambassadors of Colombia and Mexico asked Henry Clay, who was then Secretary of State, whether the United States would be willing to be represented in a congress at Panama. Mr. Clay replied that the President thought that the United States ought to be represented at Panama if preliminary points could be satisfactorily arranged.

December 6, 1825, President John Quincy Adams sent his message to Congress announcing the acceptance of the invitation of the Republics of Colombia, of Mexico, and of Central America. In a later message to the Senate, December 26, 1825, the President said:

I find a decisive inducement with me for acceding to the measure is to show, by this token of respect to the southern Republics, the interest that we take in their welfare and our disposition to comply with their wishes. Having been the first to recognize their independence and sympathize with them so far as was compatible with our national duties in all their struggles and sufferings to acquire it, we have laid the foundation of our future intercourse with them in the broadest principles of reciprocity and the most cordial feelings of fraternal friendship. To extend those principles to all our commercial relations with them, and to hand down that friendship to future ages, is congenial to the highest policy of the Union, as it will be to that of all those nations and their posterity.¹

Mr. Clay told the ministers of Mexico and Colombia that "the President believed such a congress as was proposed might be highly useful in settling several important disputed questions of public law and in arranging other matters of deep interest to the Ameri-
can Continent, and strengthening the friendship and amicable intercourse between the American powers.'

Unfortunately, the proposal of the administration to send ministers to the congress of American nations met with so much opposition in the Congress of the United States that the confirmation of the nominees made by the President was delayed and our ministers did not take part in the deliberations of the congress. Daniel Webster gave the proposition his powerful support in the House of Representatives, and the general impression was that of friendliness to the newly established Republics.

It is interesting to note that the great South American, Simon Bolivar, December 7, 1824, sent a circular letter to the Mexican Republics, formerly Spanish colonies, in which he proposed "a congress of plenipotentiaries from each State that should act as a council in great conflicts to be appealed to in case of common danger, and be a faithful interpreter of public treaties when difficulties should arise, and conciliate, in short, all our differences."

This was a renewal of a similar invitation which he had sent in 1822.

When the Colombian minister reported to Mr. Clay the proceedings of the congress at Panama, November 20, 1826, he said that the representatives of the four Republics in the congress at Panama had signed—

1. A treaty of union, league, and perpetual confederation between the four States represented, to which the other powers of America might have an opportunity to accede within one year.
2. A convention for the renewal of the great assembly annually in time of common war and biennially during peace.
3. A convention which fixes the contingent which each confederate should contribute for the common defense.
4. An agreement concerning the employment and direction of those contingents.

From these extracts it will be seen that the ideals of Bolivar and the Panama congress of 1826 have never been realized. The present dreadful war in Europe has turned the thoughts of the

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*Ibid., p. 24.*  
*Ibid., p. 160.*  
*Ibid., p. 112.*
world in the direction of these ideals. It is well to recall them now and to submit them to you as subjects for serious consideration.

Subsequent conferences attended by representatives of some of the American Republics were held in Lima in 1847, at Santiago in 1856, and again at Lima in 1864. A second congress at Panama was proposed in 1881, but was not held.

It is interesting to notice in the correspondence in reference to this proposed congress that the prevention of war and the conclusion of treaties of arbitration were two of the objects proposed for consideration.

We now come to the act of Congress approved May 24, 1888, which authorized the President to invite the Governments of the Republics of Central and South America and the Empire of Brazil to join in the conference, "for the purpose of discussing and recommending for adoption to their respective Governments some plan of arbitration for the settlement of disagreements and disputes that may hereafter arise between them, and for considering questions relating to the improvement of business intercourse and means of direct communication between said countries, and to encourage such reciprocal commercial relations as will be beneficial to all and secure more extensive markets for the products of each of said countries."

Accordingly, invitations were sent to the Governments mentioned, the President appointed delegates from the United States, and the first meeting was held in Washington, October 2, 1889. This 26 delegates attended, representing the Argentine Republic, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Paraguay, Peru, Salvador, Uruguay, Venezuela.

At the opening of the congress Mr. Blaine delivered an address of welcome, which was very warmly received, in the course of which he said:

"We believe that hearty cooperation, based on mutual confidence, will save all American States from the burdens and evils which have long and cruelly afflicted the older nations of the world. . . . We believe that a spirit of justice, of common
and equal interest, between the American States will leave no room for an artificial balance of power like unto that which has led to wars abroad and drenched Europe with blood. We believe that friendship, avowed with candor and maintained with good faith, will remove from American States the necessity of guarding boundary lines between themselves with fortifications and military force.

After this address the delegates were received by President Harrison at the White House and were very cordially welcomed by the American people. On the invitation of the Government they were taken in a special train to visit various points of interest in New England, the Middle States, and as far west as Kansas City. Their trip occupied 42 days and they traveled 5,406 miles.

After their return from this trip they went into session at Washington, committees were appointed, and the following subjects were considered:

1. Treaties of arbitration.
2. Improvement in commercial relations.
3. Improvement in facilities for ocean navigation on the Atlantic and Pacific.
4. Reciprocity treaties or a customs union.
5. A monetary convention.

In the course of these discussions the progress which the United States had made in wealth and commercial prosperity was naturally referred to. El Senor Pena, from the Argentine Republic, evidently thought that Mr. Henderson, from Missouri, who had dwelt upon this subject, was a little too boastful. In the course of his reply he said: "Que los Estados Unidos necesitan defenderse de su propia riqueza." (The United States need to defend themselves against their own wealth.)

In the speech delivered by Mr. Blaine at the closing of the conference he made the following statement:

"If, in this closing hour, the conference had but one deed to celebrate, we should draw at once the world's attention to the deliberations of two great continents to peace, and to the prosper-

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Princex La Congres des Trois Ameriques, pp. 89-91.
Minutes, pp. 337-338.
Minutes, pp. 293 to 297.
Minutes, p. 435.
ity which has peace for its foundation. We hold up this new Magna Charta which abolishes war and substitutes arbitration between the American Republics as the first and great fruit of the international American conference.\(^\text{10}\)

No doubt the conference did promote the cause of international arbitration; but there is one organization which it effected, which is really the only outward and visible sign of this conference that has been productive of great benefit to all the Republics; that is to say, the International Bureau of American Republics.\(^\text{11}\) All the Governments represented contributed to the expenses of this bureau which has been installed at Washington, and the gift of Mr. Carnegie enabled the erection of a commodious building, which is one of the ornaments of the Capital. It was in the beginning agreed that this International Bureau of the American Republics should continue for 10 years. Its usefulness was so manifest that we now consider it as a permanent institution.

The second international conference met in the City of Mexico October 22, 1901. The benefit to be derived from such conferences is well stated by the Mexican minister of foreign affairs, Senor Mariscal:\(^\text{12}\)

Although an appalling pessimism declares useless all endeavors to realize among men the predominance of justice and gives preference to right over might, it must be borne in mind that the constant assertion of sane theories and their official sanction by the Governments, through agreements or declarations made by common accord which morally bind them, notwithstanding the means to compel their observance be lacking, will work a powerful opinion, aiming at extirpating the most deep-rooted evils, as has been the case with slavery and other aberrations that it was necessary to remove in the name of reason and philosophy. And, in truth, to arrive at this common understanding, to sanction these conventions, or at least prepare their sanction, there is no better way than a liberal discussion at these conferences or congresses, in which one and all the delegates, with equal rights, can defend their opinions, bringing their share of knowledge and sentiments in favor of general welfare.

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\(^{10}\) Minutes, p. 337.
\(^{11}\) Reports Committees, Vol. I, pp. 405 to 411.
In the instructions given by the President to the American delegates he closes with the language of President McKinley in his last address in Buffalo: "Reciprocity is the natural outgrowth of our wonderful industrial development." He refers to the usefulness of the Bureau of American Republics and draws special attention to the promotion of the settlement of international disputes by arbitration, to an International Court of Claims, and to the promotion of commerce and the extension of commercial facilities.

The conference devoted much attention to the discussion of international arbitration. It adopted a protocol of adhesion to the conventions adopted at The Hague July 29, 1899, to which many of the Republics represented were not parties. The treaty for compulsory arbitration was agreed on between the Argentine Republic, Bolivia, San Domingo, Guatemala, Salvador, Mexico, Paraguay, Peru, and Uruguay.

Special attention should be called to the preamble and project of convention presented by the Chilean delegation. This project recommended the adhesion to the convention signed at The Hague, and to the principles of the convention at Geneva, 1864, relating to laws of war.

The subjects most discussed at this conference were treaties of arbitration, commercial intercourse, Pan-American Railway, customs union, quarantine and sanitation, reorganization of International Bureau of American Republics, sources of production and statistics, international archaeological commission, interoceanic canal, and Pan-American Bank.

Many of the conventions adopted by this congress have not been ratified by the respective nations. The interoceanic canal which it recommended has been constructed, but we are yet far from a Pan-American Railway extended from Washington to Buenos Aires. No American international code of quarantine and sanitation has been adopted, but great improvements have been made in the regulations of the separate nations.

The third international congress of the American States was held at Rio Janeiro in July and August, 1906. The Brazilian Gov-

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13 Report American Delegates, pp. 59 to 115.  
14 Report, pp. 8 to 20.
ernment erected a beautiful building, which is called the "Monroe
Palace," in honor of President Monroe, which was first used for
the sessions of this conference. The reception given to the dele-
gates here, as at all the conferences, was most hospitable.

In the instructions given by Secretary Root to the American
delegation, June 18, 1906, the object of such a conference is well
stated:

The true function of such a conference is to deal with matters
of common interest which are not really subjects of controversy,
but upon which comparison of views and friendly discussion may
smooth away differences of detail, develop substantial agreement,
and lead to cooperation along common lines for the attainment
of objects which all really desire.15

This conference agreed upon a plan for the reorganiza-
tion of the bureau of American Republics, of which the report says: "It
becomes in reality a permanent committee of the international
American conferences."16 This was the conference which decided
upon the erection of a permanent building in Washington for the
home of this bureau.

The conference declared the adhesion of the American Repub-
lies to the principle of arbitration for the settlement of disputes
arising between them, and recommended the nations represented to
accept the invitation to be represented at the second Hague con-
ference. It approved with some limitation the Mexican conference
treaty covering the arbitration of pecuniary claims, and recom-
mended a commission for the codification of public and inter-
national law. It agreed upon a convention embodying the prin-
ciple that when a citizen, a native of one country and naturalized
in another, "shall again take up his residence in his native coun-
try without the intention of returning to the country in which he
has been naturalized, he will be considered as having reassumed
his original citizenship and as having renounced the citizenship
acquired by said naturalization. The intention not to return will
be presumed when the naturalized person shall have resided in
his native country for more than two years. But this presumption
may be destroyed by evidence to the contrary."17

16 Report, p. 15.
One of the most important subjects discussed at the conference was the forcible collection of public debts. The conference approved the doctrine on this subject which had been advocated by Dr. Drago, the Argentine minister to Washington, and recommended the Governments represented at the conference to consider the point of inviting the second peace conference at The Hague to consider the question of the compulsory collection of public debts and, in general, measures tending to diminish between nations conflicts having an exclusively pecuniary origin.

This recommendation was followed by the second Hague conference, "which resulted in the convention by which the contracting powers agree not to have recourse to armed force for the recovery of contract debts claimed from the Government of another country as being due to its nationals, but that this agreement is not applicable when the debtor State refuses or neglects to reply to an offer of arbitration, or, after accepting the offer of arbitration, prevents any compromise from being agreed upon, or, after the arbitration, fails to submit to the award."

The conference recommended the extension of the work of the Bureau of American Republics so as to furnish commercial information and promote the extension of commerce and the knowledge of the natural resources of the various American Republics. It recommended the general adoption of a sanitary convention. It again recommended the construction of the links necessary to complete the Pan-American Railway, and continued the permanent committee on this subject which had been appointed by the Mexican conference. It recommended such action on the part of the several American Republics as would recognize in each the validity of diplomas conferring degrees in the liberal professions which had been granted by universities and colleges in any of the States represented at the conference.

It discussed and recommended measures to unify the administration of association designated as the Union of American Republics.

After the third conference the Bureau of American Republics
was reorganized and its title changed to the Pan-American Union. The governing association is designated as the Union of American Republics.\(^2\)

Its usefulness was greatly extended. There is no place in which such extensive information respecting all the American Republic can be obtained as in the building of the Pan-American Union.

In conformity with the desire expressed at the third conference, Secretary Root and the American Governments represented at the first conference of The Hague requested that when the second conference should be called all the American Republics should be invited. This request was complied with, and when the second conference met at The Hague in 1907 it consisted of delegates from 44 independent nations instead of 26.

The American Republics, during the interval between the third and fourth conferences, discussed the conventions which had been recommended by the second and third conferences. The convention agreed upon at the third conference in reference to the status of naturalized citizens was ratified by 13 States—Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Salvador, and the United States.

The convention relating to pecuniary claims had been ratified by 12 States—Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Salvador, and the United States.

The convention relating to patents, trade-marks, and copyrights has been ratified by eight States, but inasmuch as the fourth conference recommended changes in this convention, it is unnecessary to go into this subject more in detail.

The convention recommending the codification of international law has been ratified by all the States represented in the third conference except Argentina, Cuba, Nicaragua, Paraguay, and Venezuela; that respecting the appointment of Pan-American committees in the various Republics to co-operate with the central union

was approved by all parties to the third conference except Brazil, Ecuador, Guatemala, Panama, Paraguay, and Venezuela.\(^2\)

The fourth conference was held at Buenos Aires from July 12 to August 30, 1910. By an auspicious coincidence it was held in the year in which four of the South American Republics—Argentina, Colombia, Ecuador, and Peru—celebrated the centennial of their independence.

The program of this conference was somewhat more limited than that of previous conferences. For example, in the instructions from Secretary Knox the United States Government, while approving "the general principle of pacific settlement of international disputes," objected to the subject of arbitration being discussed at this conference. For this there were various reasons not of a permanent character. One of them arose from the fact that the second Hague convention on this subject had just been concluded and it did not seem wise to discuss the subject further after all the nations had come to a certain agreement concerning it.\(^2\)

In the opening address Dr. de la Plaza, the Argentine minister of foreign affairs, referred briefly to the previous conferences and used the following language, which is especially interesting in connection with the subject assigned to Judge Fowler and myself. Referring to the meeting of the first congress, he says:

> Nor were there lacking those who suspected that it was proposed to introduce a department in international law creating special principles for the peoples of America. Events and the upright procedure pursued in the successive conferences have nevertheless completely demonstrated the falsity of such imputations.\(^2\)

He pointed out with great satisfaction the growth of the American Republics during the 20 years that had elapsed since the first conference at Washington. Their population had increased from 120,000,000 to 160,000,000. The grand total of their commerce, including imports and exports, had increased to $6,000,-000,000, of which a little more than half belonged to the United States. He then added, referring to the condition of the Central

\(^{22}\) Report, pp. 36-37.  
\(^{23}\) 4th Conf., p. 45.
and South American Republics in the early part of the nineteenth century:

This condition of precarious autonomy and liberty of action, and the constant danger of being subjugated or suffering the mutilation of their territory, would have continued among these weak States but for the wise and famous declarations of President Monroe, to which we ought to render due homage.²

Although the American delegation had been instructed not to propose the consideration of any further treaties of arbitration, yet their chairman, Hon. Henry White, in his address at the opening of the conference, which we may well commend with our heartfelt good wishes and prayers to the consideration of the warring nations of Europe, said: "We hope and feel . . . that national aggrandizement and prosperity are to be attained far more readily by friendship than by war."²²⁵

In this connection it should be noted that in the interim between the two conferences, Argentina, Brazil, and the United States had joined in offering mediation between Peru and Ecuador after their armies had been mobilized. Chile supported the offer and war was averted. This was the first action taken by any Governments under the mediation provision of the first Hague convention.²⁰

The conference recommended the completion of the Pan-American Railway from Washington to Buenos Aires. The report of the American delegates is accompanied by a map, which had been prepared by a permanent committee on the subject. It is shown that the total length of the line from Washington to Buenos Aires is 10,211.5 miles. Of this there had been built in 1910 6,612.9 miles, leaving for future construction 4,198.6 miles.²⁷

It recommended the improvement of the steamship service connecting the different Republics, but no definite plan was attempted. In all the discussions in the conferences in regard to the improvements of steamship service, the facts of the comparative distances between European ports and the ports of South America, on one

²⁴th Conf., p. 46.
²⁴th Conf., p. 46.
²²Report, p. 42.
side, and New York and South American ports, on the other, do not appear to have been considered. Very probably they were by the delegates, but I have failed to find any trace of this in the reports. In point of fact the conformation of South America is such that Pernambuco, which is the most easterly port of Brazil, is only 32° of longitude to the west of Liverpool, whereas it is 49° to the east of New York.28

The conference recommended uniformity in customs and consular regulations, in census and commercial statistics, and proposed a general census of all the American Republics to be taken in 1920.29

The conference recommended conventions on patents, on trademarks, and on copyrights.30

The conference carefully considered the subject of the arbitration of pecuniary claims. The treaty which had been signed at Mexico was to expire December 31, 1912. A new treaty was recommended which should continue in force indefinitely, subject to be terminated by any party by giving two years' notice in writing. The arbitration was to be before The Hague tribunal, unless the parties should prefer to create a special jurisdiction. This convention was ratified by the United States Senate February 1, 1911.31

Finally the conference recommended the interchange of professors among the universities of the countries recommended in the conference.

I have thus endeavored briefly to summarize the action of the fourth international conference of the American States and to mention some of their results. This can not be better expressed than in the words of our great American ambassador and advocate, Mr. Choate:

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29 Report, pp. 13, 17, 192, 261.
31 Report, pp. 21 to 25; 128 to 145. The report of the committee on this important subject is at page 280, Treaties between United States and other powers, Vol. III, p. 345.
Disloyalty and Treason and Their Punishment.

But the success of conferences is to be weighed and measured, not simply by their direct action, which commands the approval of all the nations, but also, and perhaps even more, by the progress they make in questions still left undecided and subject to further action by diplomacy or by future conferences.32

DISLOYALTY AND TREASON AND THEIR PUNISHMENT AS PROVIDED BY FEDERAL LAWS.*

By Thomas W. Gregory.†

The sporadic activities of a few agitators who, led by good or bad motives, seek to hamper our work in the war, justify me as the chief law officer of the executive branch of the Government in calling attention to the duties, moral and legal, of all persons owing temporary or permanent allegiance to the United States.

The German Government began this war by a contemporaneous breach of its formally plighted faith made in solemn treaty and from the beginning until now has more than made good this ominous earnest of its intention and temper. The President has shown us how one by one, as opportunity offered, the safeguards which civilization has been able during the centuries to throw around neutrals and the nonfighting people of warring nations were ruthlessly torn down; how patient and long-suffering remonstrance and request were met by fair words, and fairer promises made only to be broken.

No Rule of War Held Sacred by the German Imperial Government,

We all know as but sober facts, plainly stated, that the Imperial Government has allowed no rule of war, no principle of civilization, no consideration of humanity, no teaching of Christianity to stand between it and the working of its illegal purposes. For half a century that Government has schemed and prepared to dominate the world by "blood and iron." For half a century the officials of the Imperial Government, from the Kaiser down, in-

* Choate: The Two Hague Conferences, p. 74.
† Official Bulletin.
‡ Attorney General of the United States.