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## How 'Wilsonian' Was Woodrow Wilson

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## ESSAYS

### *The John Sloan Dickey Essay on International Law* HOW “WILSONIAN” WAS WOODROW WILSON?

MARK WESTON JANIS\*

*This essay reveals how President Woodrow Wilson's passion for international law slowly developed over several stages in his life from his professorship at Princeton to his presidency. By exploring Wilson's conversion from a skeptic of international law to one of its greatest proponents, the author shows how Wilson's world view shaped American foreign policy and the political landscape.*

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## INTRODUCTION

In researching and writing the first part of my intellectual history of American international law,<sup>1</sup> one of my greatest surprises was to discover how little Woodrow Wilson was personally responsible for the conception and form of the League of Nations and the Permanent Court of International Justice. Despite inspiration from American sources, these international institutions were largely the work of others. It was Dodge, Worcester, Ladd and Burritt who, from 1815 to 1873, crafted American blueprints for the League and the Permanent Court.<sup>2</sup> This challenge to the traditional conception of Wilson and his relationship to international law raises the question: How “Wilsonian” was Woodrow Wilson?

I conclude that though Wilson long had an interest in international law, he was not for most of his life enamored of it. Rather, Wilson’s personal encounter with international law began as an academic sideline; only very late in life did it develop into a matter of deep concern and eventually become a passion. These phases were not discrete categories, as Wilson moved between them. Nevertheless, they roughly reflect the course of Wilson’s engagement with international law and organization. We may mostly remember Wilson’s final idealistic phase and even refer to some visions of international law and international organization as “Wilsonian,” but Wilson, in his first two phases, was not what we would now call “Wilsonian.”

The article is organized as follows. I first identify what I mean by “Wilsonian.” In Section II, I describe Wilson’s early academic life in which he had little experience with and interest in international law. Section III discusses Wilson’s slow adoption of international law during the early years of his presidency. The fourth section explores his transition to a “Wilsonian” and offers some concluding remarks.

## I. “WILSONIAN” DEFINED

In his insightful book, *Special Providence*, Walter Russell Mead identifies four American schools of thought towards the conduct of foreign policy. Wilsonians “believe that the United States has both a moral and a practical duty to spread its values through the world.”<sup>3</sup> In contrast, Hamiltonians see the “first task of the American government as promoting the health of American enterprise at home and abroad.”<sup>4</sup> Jeffersonians have

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<sup>1</sup> MARK WESTON JANIS, *THE AMERICAN TRADITION OF INTERNATIONAL LAW: GREAT EXPECTATIONS 1789-1914* (2004).

<sup>2</sup> *Id.* at 95-116, 137-138.

<sup>3</sup> *Id.* at 87-88.

<sup>4</sup> WALTER RUSSELL MEAD, *SPECIAL PROVIDENCE: AMERICAN FOREIGN POLICY AND HOW*

"typically seen the preservation of American democracy in a dangerous world as the most pressing and vital interest of the American people."<sup>5</sup> Jacksonians represent "a deeply embedded, widely spread populist and popular culture of honor, independence, courage, and military pride among the American people."<sup>6</sup> According to Mead, a Wilsonian's first principle "is that democracies make better and more reliable partners than monarchies and tyrannies."<sup>7</sup> "After the promotion of democracy, the next objective of Wilsonian strategic thought is the prevention of war."<sup>8</sup> This antiwar sentiment has led Wilsonians, over time, to the promotion "first, of bilateral arbitration treaties and, later, to the League of Nations, the World Court and the United Nations."<sup>9</sup> "Wilsonians take on themselves the task of bringing the United States into compliance with what they hope will develop into a genuinely Wilsonian international order."<sup>10</sup>

## II. THE ACADEMIC YEARS

But how Wilsonian was Woodrow Wilson? During his mostly academic period from 1865-1913, Wilson dealt with international law to some extent but was not entranced with it. As a Princeton professor, Wilson introduced a new course on international law in the spring of 1892. This course was not, however, personally absorbing. Arthur Link's editorial notes to the Wilson Papers comment that "[f]requent references in his letters to his wife . . . indicate that Wilson was struggling to stay ahead of his classes." More important than international law to Wilson was Jurisprudence, where it seems that "Wilson worked hardest."<sup>11</sup> Despite this, Wilson in the 1891-1892 Princeton catalogue promised to offer international law every other year, alternating it with a course on constitutional law.<sup>12</sup> It seems, though, that his promise to teach international law lasted only three years until 1894.<sup>13</sup>

Another example of Wilson's lukewarm academic attitude towards international law can be found in his popular college textbook, *The State*. In the 1902 revised edition, published just before he left his Princeton teaching post to assume the University's presidency, Wilson first

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IT CHANGED THE WORLD 87 (2001).

<sup>5</sup> *Id.* at 88.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 162.

<sup>8</sup> *Id.* at 165.

<sup>9</sup> *Id.* at 166.

<sup>10</sup> *Id.*

<sup>11</sup> Woodrow Wilson, in 7 THE PAPERS OF WOODROW WILSON 292 (Link ed.).

<sup>12</sup> *Id.* at 5.

<sup>13</sup> THOMAS J. KNOCK, in TO END ALL WARS: WOODROW WILSON AND THE QUEST FOR A NEW WORLD ORDER 8 (1992) [hereinafter *KNOCK*].

mentioned international law when he distinguished it from the Roman law's *jus gentium*:

**The Jus Gentium not International Law** — This body of law had, of course, nothing in common with what we now call the Law of Nations, that is, International Law. International law relates to the dealings of nation with nation, and is in largest part *public* law — the law of the state, of political, action. The *jus gentium*, on the other hand, was only a body of *private* and commercial law, chiefly the latter. It had nothing to do with state action, but concerned itself exclusively with the relations of individuals to each other among the races subject to Rome. Rome decided political policy, her Foreign Praetor decided only private rights.<sup>14</sup>

A fuller treatment of international law is found much later in the book in an exploration of the nature of law. Wilson perceived international law as soft and doubtful, perhaps not real law:

**International Law.** — The province of International Law may be described as a province half-way between the province of morals and the province of positive law. It is law without a forceful sanction. There is no earthly power of which all nations are subjects; there is no power, therefore, to enforce obedience to rules of conduct as between nation and nation. International Law is, moreover, a law which rests upon those uncodified, unenacted principles of right action, of justice, and of consideration which have so universally obtained the assent of men's consciences, which have so universal an acceptance in the moral judgments of men everywhere, that they have been styled Laws of Nature, but which have a nearer kinship to ethical maxims than to positive law. "The law of nations," says Bluntschli, "is that recognized universal Law of Nature which binds different states together in a humane jural society, and which also secures to the members of different states a common protection of law for their general human and international rights." Its only formal and definite foundations, aside from the conclusions of those writers who, like Grotius and Vattel, have given to it distinct statements of what they conceived to be the leading, the almost self-evident principles of the Law of Nature, are to be found in the treaties by which states, acting in pairs or groups, have agreed to be bound in their relations with each other, and in such principles of international action as have found their way into the statutes or the established judicial precedents of enlightened individual states. More and more, international conventions have come to recognize in their treaties certain elements of right, of equity, and of comity as settled, as always to be accepted in transactions between nations. The very jealousies of European nations have contributed to swell the body of accepted treaty principles. As the practice of concerted action by the

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<sup>14</sup> WOODROW WILSON, THE STATE 150 (rev. ed. 1902).

states of the continent of Europe concerning all questions of large interest, the practice of holding great Congresses like those of Vienna in 1815, of Paris in 1856, and of Berlin in 1878, has grown into the features of a custom, so has the body of principles, which are practically of universal recognition increased. International law, says Dr. Bulmerincq, "is the totality of legal rules and institutions which have developed themselves touching the relations of states to one another."

International Law is, therefore, not law at all, in the strictest sense of the term. It is not, as a whole, the will of any state: there is no authority set above the nations whose command it is. In one aspect, the aspect of Bluntschli's definition, it is simply the body of rules, developed out of the common moral judgments of the race, which *ought* to govern nations in their dealings with each other. Looked at from another, from Dr. Bulmerincq's, point of view, it is nothing more than a generalized statement of the rules which nations have actually recognized in their treaties with one another, made from time to time, and which by reason of such precedents are coming more and more into matter-of-course acceptance.

These rules concern the conduct of war, diplomatic intercourse, the rights of citizens of one country living under the dominion of another, jurisdiction at sea, etc. Extradition principles are settled almost always by specific agreement between country and country, as are also commercial arrangements, fishing rights, and all similar matters not of universal bearing. But even in such matters example added to example is turning nations in the direction of uniform principles; such, for instance, as that political offences shall not be included among extraditable crimes, unless they involve ordinary crimes of a very heinous nature, such as murder.<sup>15</sup>

This very limited vision of international law was also reflected in Wilson's Princeton lectures. For example, a student of Wilson's recorded in his class notes in 1897, "[t]he law which is produced by the society of the States and which we call International Law . . . is in part a body [of] Positive Morality, and in part a body of definite law based upon contract, treaty and the laws of individual states."<sup>16</sup> Two years later in 1898, Wilson is quoted as saying that "[t]here is no gov[ernment] to stand behind international law;" instead, international law is "addressed to the conscience and good faith of nations."<sup>17</sup>

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<sup>15</sup> *Id.* at 604-605.

<sup>16</sup> Woodrow Wilson, quoted in "Notes of James Lawson Norris on Woodrow Wilson Lectures, 1897-1899," handwritten notes, Jurisprudence Lecture VIII, October 19, 1897, from the archives of the Firestone Library, Princeton University.

<sup>17</sup> Woodrow Wilson, quoted in "Notes of George L. Denny on Woodrow Wilson Lectures, 1899-1900," handwritten notes, Jurisprudence Lecture of October 10, 1899, from the archives of the Firestone Library, Princeton University.

Note Mead's "Wilsonianism" that is missing from Professor Wilson's academic vision of international law. There is no reference to the use of international law to spread American democracy and moral values throughout the world. There is no mention of international arbitration or hopes for world peace. Wilson's concrete example of the modern development of international law is the generation of uniform principles in regards to criminal extradition, hardly a cutting edge issue for the international law enthusiasts at the time. All in all there is nothing about developing what Mead calls "a genuinely Wilsonian international legal order." As an academic, Wilson was principally a political scientist, much more interested in transforming domestic rather than international government.

Wilson, as an academic, never considered himself an international lawyer, nor did others think of him as such. Thus, it was not surprising that when the first volume appeared in what would quickly become America's premier international law review, *The American Journal of International Law* (the *AJIL*) in 1907, Wilson was not to be found. Given his later importance to the field, one might have expected Wilson to have been among the *AJIL*'s elite group of international law's "Great and Good." He would have been in excellent company. To mention only a dozen of the prominent figures who, unlike Wilson, published on a wide variety of topics in the first four issues of the *AJIL*, there were: Elihu Root, the U.S. Secretary of State;<sup>18</sup> John W. Foster, formerly U.S. Secretary of State and grandfather of Dwight Eisenhower's Secretary of State, John Foster Dulles;<sup>19</sup> John Bassett Moore, Professor of International Law at Columbia University;<sup>20</sup> George B. Davis, Judge Advocate General of the U.S. Army;<sup>21</sup> Amos S. Hershey, Professor of International Law at the University of Indiana;<sup>22</sup> Jacob B. Hollander, Professor of Political Economy at Johns Hopkins University;<sup>23</sup> Robert Lansing, who would become Woodrow

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<sup>18</sup> Elihu Root, *The Need of Popular Understanding of International Law*, in 1 AMERICAN JOURNAL OF INTERNATIONAL LAW 1 (1907); *The Real Question Under the Japanese Treaty and the San Francisco School Board Resolution*, in 1 AMERICAN JOURNAL OF INTERNATIONAL LAW 273 (1907).

<sup>19</sup> John W. Foster, *International Responsibility to Corporate Bodies for Lives Lost by Outlawry*, in 1 AMERICAN JOURNAL OF INTERNATIONAL LAW 4 (1907).

<sup>20</sup> John Bassett Moore, *International Law; Its Present and Future*, in 1 AMERICAN JOURNAL OF INTERNATIONAL LAW 11 (1907).

<sup>21</sup> George B. Davis, *Doctor Francis Lieber's Instructions for the Government of Armies in the Field*, 1 AMERICAN JOURNAL OF INTERNATIONAL LAW 13 (1907); *The Geneva Convention of 1906*, in 1 AMERICAN JOURNAL OF INTERNATIONAL LAW 409 (1907).

<sup>22</sup> Amos S. Hershey, *The Calvo and Drago Doctrines*, in 1 AMERICAN JOURNAL OF INTERNATIONAL LAW 26 (1907).

<sup>23</sup> Jacob B. Hollander, *The Convention of 1907 Between the United States and the Dominican Republic*, in 1 AMERICAN JOURNAL OF INTERNATIONAL LAW 287 (1907).

Wilson's second Secretary of State;<sup>24</sup> Simeon E. Baldwin, Chief Justice and later Governor of Connecticut;<sup>25</sup> Paul S. Reinsch, Professor of Political Science at the University of Wisconsin;<sup>26</sup> Albert Bushnell Hart, Professor of Government at Harvard University;<sup>27</sup> James Brown Scott, Professor of Law at George Washington University;<sup>28</sup> and Charles H. Stockton, Rear Admiral in the U.S. Navy.<sup>29</sup>

That Wilson had only a modest interest in international law up to the days of his presidency is also indicated by his limited role in the American Society of International Law ("ASIL"). Though Wilson joined the ASIL when it was founded in 1907, he never became an officer either at Princeton, as Governor of New Jersey, or as President of the United States.<sup>30</sup> In contrast to Wilson, the ASIL elected his presidential predecessor William Taft as Vice President. During the four years of his U.S. presidency, Taft was the Honorary President of the ASIL (Elihu Root remained President, as he was at the society's founding). Moreover, President Taft held receptions at the White House for the ASIL, a courtesy never extended by President Wilson.<sup>31</sup> When Wilson defeated Taft at the polls and gained the White House, Taft relinquished his Honorary ASIL Presidency and resumed his position as ASIL Vice President.<sup>32</sup>

Wilson's reluctance to take international law seriously continued into his 1912 campaign for the presidency. Even before those who favored international law, Wilson was not inclined to praise this subject area. In a speech to the Universal Peace Union in February 1912, Wilson was careful to caution his audience about the limits of international law and international courts. A news account reported that Wilson argued that it was important for countries to achieve domestic harmony before seeking

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<sup>24</sup> Robert Lansing, *Notes on Sovereignty in a State*, in 1 AMERICAN JOURNAL OF INTERNATIONAL LAW 297 (1907).

<sup>25</sup> Simeon E. Baldwin, *The International Congresses and Conferences of the Last Century as Forces Working Toward the Solidarity of the World*, in 1 AMERICAN JOURNAL OF INTERNATIONAL LAW 565 (1907).

<sup>26</sup> Paul S. Reinsch, *International Unions and Their Administration*, in 1 AMERICAN JOURNAL OF INTERNATIONAL LAW 579 (1907).

<sup>27</sup> Albert Bushnell Hart, *American Ideals of International Relations*, in 1 AMERICAN JOURNAL OF INTERNATIONAL LAW 624 (1907).

<sup>28</sup> James Brown Scott, *The Legal Nature of International Law*, in 1 AMERICAN JOURNAL OF INTERNATIONAL LAW 831 (1907).

<sup>29</sup> C.H. Stockton, *Would Immunity from Capture, During War, of Non-Offending Private Property Upon the High Seas be in the Interest of Civilization*, in 1 AMERICAN JOURNAL OF INTERNATIONAL LAW 930 (1907).

<sup>30</sup> PROCEEDINGS OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW, Vol. 1 at 9 (1907), Vol. 2 at 9, 183 (1908), Vol. 3 at 10-11, 294 (1909), Vol. 4 at 10-11, 252 (1910). Vol. 5 at 11-12, 406 (1911), Vol. 6 at v-vi, 256 (1912), *Id.*, Vol. 7 at v, 377, (1913), Vol. 8 at v-vi (1914), Vol. 9 at v-vi, 211 (1915), Vol. 10 at v (1916), Vol. 11 at vii (1917), Vol. 12-13 at v (1918-1919).

<sup>31</sup> *Id.* at Vol. 3 at 12 (1909), Vol. 4 at 12 (1910), Vol. 5 at 116.

<sup>32</sup> *Id.* at Vol. 7 at v (1913).

international peace:

In the first part of the address Governor Wilson said that it was necessary to carefully study the whole question and to endeavor to ascertain whether we could clearly advocate peace. He said that countries must first have industrial peace and justice within the confines of the country before the question of international peace should be discussed. He said that war was “clumsy and brutal,” and that we were steadily outgrowing such methods of righting wrongs, but that all must gravely consider the question of concession and equality before war could be abolished. He characterized peace as a perfectly running machine with friction practically eliminated, due to the perfection of construction.

The whole keynote of the address was the need for righting wrongs, securing justice for the laborer, equity and right in each country and international good will would necessarily follow.<sup>33</sup>

### III. THE EARLY PRESIDENTIAL YEARS

It was only when Wilson became President that he began to take a rather different view of international law. Perhaps to his surprise, international law became a necessary part of his new job. In what we might think of as his second phase as President of the United States, 1913-1917 before America joined in World War I, Wilson was suddenly deeply concerned about international law, especially violations of it. For example, in his Fourth of July address in 1914—after the assassination in Sarajevo in June but before the outbreak of war in August—Wilson spoke of the importance of up-holding treaty obligations:

And so I say that it is patriotic sometimes to prefer the honor of the country to its material interest. [. . .] When I have made a promise as a man, I try to keep it, and I know of no other rule permissible to a nation. The most distinguished nation in the world is the nation that can and will keep its promises even to its own hurt.<sup>34</sup>

When war did break out, Wilson appealed to all Americans to remain “neutral in fact as well as in name during these days that are to try men’s souls.”<sup>35</sup>

Soon after, on August 22, 1914, Wilson’s principal advisor, Colonel House, whom Wilson called “my second personality . . . my independent self,” advised Wilson: “Germany’s success will ultimately mean trouble for us. We will have to abandon the path which you are blazing as a standard

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<sup>33</sup> Woodrow Wilson, *A News Account of an Address in Philadelphia to the Universal Peace Union*, Feb. 19, 1912, in 24 THE PAPERS OF WOODROW WILSON 181, 182 (A. Link ed.).

<sup>34</sup> Woodrow Wilson, “A Fourth of July Address,” July 4, 1914, in 30 THE PAPERS OF WOODROW WILSON 248, 253 (A. Link ed.).

<sup>35</sup> Woodrow Wilson, “An Appeal to the American People,” August 19, 1914, in *id.* at 393, 394.

for future generations, with permanent peace as its goal and a new international ethics code as its guiding star, and build up a military machine of vast proportions."<sup>36</sup> A few months later, Wilson echoed Colonel House in a speech to the American Bar Association: "Our first thought, I suppose, as lawyers, is of international law, of those bonds of right and principle which draw the nations together and hold the community of the world to some standards of action."<sup>37</sup>

Perhaps the academic Wilson who had termed international law as "not law at all in the strictest sense of the term" would have been surprised to find the presidential Wilson arguing that international law was both important and legally binding. For example, on December 8, 1914, he wrote Jacob Henry Schiff:

In the matter of sales of goods [to the belligerents, where] the precedents of international law are so clear, that I have felt that I could do nothing else than leave the matter to settle itself. In a single recent case I saw my way clear to act. When it came to the manufacture of submarines and their shipment abroad, complete, to be put together elsewhere it seemed to me to be clearly my privilege, acting in the spirit of the Alabama case, to say that the Government could not allow that, and the Fore River Ship Building Company which is said to have undertaken the contracts has cancelled them.<sup>38</sup>

Wilson was deeply skeptical about launching the United States into the Great War. Here he differed from former President Theodore Roosevelt who advocated America leading a band of neutral states to oppose Germany as the aggressor in the war. In correspondence with Roosevelt, Sir Edward Grey even suggested that the United States "might possibly have stopped the War" and forced the European states to arbitration if it "had been made clear that . . . if, when [states use their arms] for aggressive purposes, the world was brought out against them."<sup>39</sup> Roosevelt's so-called "*posse comitatus* of neutral countries,"<sup>40</sup> seems a forerunner of the notion of collective security that would be the core principle of the League of Nations.

Faced with attacks on trans-Atlantic shipping by German U-boats, Wilson invoked "the whole fine fabric of international law" as justification

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<sup>36</sup> Quoted in Richard Hofstadter, *Woodrow Wilson: The Conservative as Liberal*, in *THE AMERICAN POLITICAL TRADITION AND THE MEN WHO MADE IT* 308, 340 (Vintage ed. 1974) [hereinafter *Hofstadter*].

<sup>37</sup> Woodrow Wilson, *Remarks to the American Bar Association*, October 20, 1914, in *31 PAPERS OF WOODROW WILSON* 184 (Link ed.).

<sup>38</sup> Woodrow Wilson, "To Jacob Henry Schiff," Dec. 8, 1914, in *31 THE PAPERS OF WOODROW WILSON* 425 (A. Link ed.).

<sup>39</sup> Sir Edward Grey to Mr. Roosevelt, Thursday, October 20, 1914, in *GREY OF FALLODON, FALLODON PAPERS* 145 (1926).

<sup>40</sup> Sir Edward Grey to Mr. Roosevelt, December 18, 1914, in *id.* at 147.

for permitting Americans, still neutrals in the combat, to travel on Allied shipping, even the ill-fated *Lusitania*, sunk in the spring of 1915. Wilson wrote Senator Stone that to do otherwise, international law “might crumble under our hands piece by piece.”<sup>41</sup>

#### IV. THE WAR YEARS

When Wilson went to Congress on April 2, 1917 for a declaration of war against Imperial Germany, he entered into his third and final phase of involvement with international law. Far from a subject of little interest, no longer just a matter of anxious concern, international law became, for the war-time Woodrow Wilson, a passionate involvement. Indeed, the development of international law became, for him, one of the chief justifications for the United States entering into a bloody and much regretted war.

Personal anguish from launching the United States into the horrors of Europe’s Great War guided Wilson’s final passion for international law. To understand that anguish, it is useful to remember Wilson’s boyhood acquaintance with an equally awful conflagration, the American Civil War. Thomas Knock captures this early acquaintance:

Woodrow Wilson’s earliest memory was of hearing, at the age of four, that Abraham Lincoln had been elected President and that there would soon be a war. His father, the Reverend Dr. Joseph Ruggles Wilson, was one of Georgia’s most prominent Presbyterian ministers and, despite his Yankee heritage, an ardent Southern sympathizer. Both of Wilson’s parents were Northerners; in the 1850’s, they had moved from Ohio to Staunton, Virginia where Wilson was born in 1856, and eventually to Augusta, Georgia, where the Civil War overshadowed Wilson’s childhood. As his eighth birthday approached, he witnessed the solemn march of thousands of Confederate troops on their way to defend the city against Sherman’s invasion. He watched wounded soldiers die inside his father’s church and pondered the fate of the ragged Union prisoners confined in the churchyard outside. Soon he would see Jefferson Davis paraded under Union guard through the streets and would recall standing “for a moment at General Lee’s side and looking up into his face.”<sup>42</sup>

Wilson once commented, “A boy never gets over his boyhood, and never can change those subtle influences which have become a part of him.” It is an important fact that he experienced, at an impressionable age, the effects of a great war and its aftermath.<sup>43</sup>

The son of a Presbyterian minister and a Presbyterian minister’s daughter, Wilson, in the words of Richard Hofstadter, was reared “to look

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<sup>41</sup> HOFSTADTER, *supra* note 36, at 345.

<sup>42</sup> KNOCK, *supra* note 13, at 3.

<sup>43</sup> *Id.*

upon life as the progressive fulfillment of God's will and to see man as 'a distinct moral agent' in a universe of moral imperatives."<sup>44</sup> Wilson "never aspired to be a clergyman, but he made politics his means of spreading spiritual enlightenment, of expressing the powerful Protestant urge for 'service.'"<sup>45</sup> During the Great War, international law became Wilson's mission.

The echoes of the Civil War and his powerful Protestant sense of moral mission were made plain two years after America's declaration of war. Wilson went to the U.S. Senate in search of advice and consent to the League of Nations Covenant he personally negotiated in Paris. He spoke of Congress's assent to sending troops to fight in France:

Let us never forget the purpose – the high purpose, the disinterested purpose – with which America lent its strength, not for its own glory but for the defense of mankind. I think there is nothing that appeals to the imagination more in the history of man than those convoyed fleets crossing the ocean with the millions of American soldiers aboard – those crusaders, those men who loved liberty enough to leave their homes and fight for them upon the distant fields of battle, those men who swung into the open as if in fulfillment of the long prophecy of American history.

What a halo and glory surrounds those old men whom we now greet with such reverence, the men who were the soldiers in our Civil War! They saved a Nation! When these youngsters grow old who have come back from the fields of France, what a halo will be around their brows! They saved the world! They are of the same stuff as those old veterans of the Civil War. I was born and bred in the South, but I can pay that tribute with all my heart to the men who saved the Union. It ought to have been saved! It was the greatest thing that men had conceived up to that time. Now we come to a greater thing – to the union of great nations in conference upon the interests of peace. That is the fruitage, the fine and appropriate fruitage of what these men achieved upon the fields of France. I do not hesitate to say, as a sober interpretation of history, that American soldiers saved the liberties of the world.

Shall the great sacrifice that we made in this war be in vain, or shall it not?<sup>46</sup>

What would justify this great sacrifice? In answering, Wilson had, three years earlier, invoked international adjudication with religious enthusiasm:

You know that there is no international tribunal, my fellow citizens. I

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<sup>44</sup> Hofstadter, *supra* note 36, at 308.

<sup>45</sup> *Id.*

<sup>46</sup> WOODROW WILSON, in WOODROW WILSON'S CASE FOR THE LEAGUE OF NATIONS 20-21 (H. Foley ed. 1922) [hereinafter *WOODROW WILSON'S CASE*].

pray God that if this contest have no other result, it will at least have the result of creating an international tribunal and producing some sort of joint guarantee of peace on the part of the great nations of the world.<sup>47</sup>

Once the war in Europe began, Wilson went further, moving from merely advocating an international tribunal to the idealistic promotion of a full-fledged international government, the League of Nations:

If it be in deed and in truth the common object of the Governments associated against Germany and of the nations whom they govern, as I believe it to be, to achieve by the coming settlements a secure and lasting peace, it will be necessary that all who sit down at the peace table shall come ready and willing to pay the price, the only price, that will procure it; and ready and willing, also, to create in some virile fashion the only instrumentality by which it can be made certain that the agreements of the peace will be honored and fulfilled.

That price is impartial justice in every item of the settlement, no matter whose interest is crossed, and not only impartial justice, but also the satisfaction of the several peoples whose fortunes are dealt with. That indispensable instrumentality is a League of Nations formed under covenants that will be efficacious.<sup>48</sup>

Wilson's transformation, an all-encompassing conversion to the promise of international law and organization, was remarkable. After years of doubt about the potential of international law, he had become fully committed to an extreme form of the discipline, a belief in world government. In arguing that "International Law [was] Completely Changed,"<sup>49</sup> Wilson wrote that "International law up to this time has been the most singular code of manners. You could not mention to any other government anything that concerned it unless you could prove that your own interests were involved. . . . In other words, at present, we have to mind our own business."<sup>50</sup>

In contrast, once the United States joined the League of Nations, Americans would be able to "mind other people's business and everything that affects the peace of the world, whether we are parties to it or not. . . . We can force a nation on the other side of the globe to bring to that bar of mankind any wrong that is afoot in that part of the world which is likely to affect the good understanding between nations, and we can oblige them to show cause why it should not be remedied."<sup>51</sup> This was supra-nationalism,

<sup>47</sup> Woodrow Wilson, Speech in Des Moines, Iowa, February 1, 1916, quoted in J.B. Scott, *in AN INTERNATIONAL COURT OF JUSTICE* ii (1916).

<sup>48</sup> Woodrow Wilson, *Address in New York, September 27, 1918*, in WOODROW WILSON'S OWN STORY 284, 285 (D. Day ed. 1952).

<sup>49</sup> WOODROW WILSON'S CASE, *supra* note 45, at 103.

<sup>50</sup> *Id.* at 103-104.

<sup>51</sup> *Id.* at 104.

a thorough-going imposition on state sovereignty.

The apotheosis of Wilson's vision of an ethical international law came in his famous Fourteen Points speech on January 8, 1918. This eloquent elaboration of American war aims not only hastened the peace with Germany and the other central powers, but charted an ethical course for international relations. Along with Thomas Jefferson's 1776 Declaration of Independence, James Madison's 1787 United States Constitution and Abraham Lincoln's 1863 Gettysburg Address, Woodrow Wilson's 1918 Fourteen Points ranks as one of America's most important public documents. It reads in relevant part:

We entered this war because violations of right had occurred which touched us to the quick and made the life of our own people impossible unless they were corrected and the world secured once for all against their recurrence. What we demand in this war, therefore, is nothing peculiar to ourselves. It is that the world be made fit and safe to live in; and particularly that it be made safe for every peace-loving nation which, like our own, wishes to live its own life, determine its own institutions, be assured of justice and fair dealing by the other peoples of the world as against force and selfish aggression. All the peoples of the world are in effect partners in this interest, and for our own part we see very clearly that unless justice be done to others it will not be done to us. The program of the world's peace, therefore, is our program; and that program, the only possible program, as we see it, is this.<sup>52</sup>

#### CONCLUSION

Even as a new and passionate advocate of international law and organization, Wilson remained skeptical of some of the key traditional proponents of international courts and organization. In a letter dated March 20, 1918 to Colonel House he referred scathingly to "these League to Enforce Peace butters-in," complaining not only of Mr. Taft who "never stays put," but of the venerable "Mr. Marburg of Baltimore, one of the principal woolgatherers."<sup>53</sup>

Wilson's newfound affirmation of international law and organization came at a crucial time for the discipline. Many of its adherents had grown disheartened because of the outrages of the Great War. Indeed, the leaders of the American Society of International Law decided not to hold an ASIL annual meeting in 1918, 1919 and 1920. One would have thought these were the years in which discussion and promotion of international law

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<sup>52</sup> 45 THE PAPERS OF WOODROW WILSON 536-569 (A. Link ed. 1984).

<sup>53</sup> Woodrow Wilson, Letter to Edward Mandell House, March 20, 1918, in 47 THE PAPERS OF WOODROW WILSON 85-86 (A. Link ed.).

would have been most useful. Incredibly, in 1918, the ASIL Executive Council, including Elihu Root and James Brown Scott, weakly resolved:

The Executive Council of the American Society of International Law consider that the very existence of international law is now at issue. The Committee on the Annual Meeting has therefore refrained from calling the members of the Society from the active work on which most of them are engaged to meet for the discussion of questions of law. The only greater question of international law today is whether that law should continue to exist.<sup>54</sup>

Woodrow Wilson continued to defend international law in the face of its detractors and former proponents. In 1918, Wilson, the erstwhile international law academic skeptic, announced “an international law completely changed” and “a general association of nations . . . formed under specific covenants for the purpose of affording mutual guarantees of political independence and territorial integrity to great and small states alike.” Conversely, James Brown Scott, the long-time professional proponent of international law, complained of international law in that very same year: “in times of this kind, such a [an ASIL] meeting, discussing things that seem so irrelevant, would really hold us up to ridicule.”<sup>55</sup> As Wilson appealed to “all the peoples of the world” to join him to create a lasting peace, Elihu Root sniped, “You know, the Germans are only half-civilized.”<sup>56</sup>

By 1918, it was Wilson, the longtime skeptic of international law, who became international law’s most fervent advocate. Even international law’s long-standing proponents, Brown and Hull, doubted their discipline after the disillusionment of the First World War. Wilson’s sense of personal responsibility for the loss of American life in the Great War transformed him into a passionate believer in the absolute necessity of transforming international law and organization. In so doing, he made it the principal justification for the loss of life in the Great War. Wilson, like his predecessors, had come to expect much of international law and organization. Wilson, by 1918, had finally become a true “Wilsonian.”

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<sup>54</sup> 12-13 PROCEEDINGS OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW 14 (1918-1919).

<sup>55</sup> *Id.* at 15-16.

<sup>56</sup> Root, *supra* note 18, at 273.