

TREATIES, THEIR MAKING AND ENFORCEMENT

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Treaties, their making and enforcement by Samuel B. Crandall

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SAMUEL B. CRANDALL

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ENFORCEMENT**

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BY

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PREFACE

EVEN the frequency with which authorities are cited in the foot-notes, can but partially indicate my indebtedness to others. I desire here to acknowledge the most generous assistance. Although the portions of the dissertation relating to treaty-making in the United States and in France, had been prepared and presented before the Seminar at Columbia University prior to the appearance of *The Treaty-Making Power of the United States*, by Charles Henry Butler, and of *Les Traités internationaux devant les Chambres*, by Louis Michon, both have been of great service in the final revision. To Mr. Andrew H. Allen of the Department of State, for generous privileges given in the use of the manuscripts and publications deposited in the Bureau of Rolls and Library, and to my co-workers in the Department, for many courtesies extended, my thanks are especially due. To the members of the Faculty of Political Science in Columbia University, and more especially to Professor John Bassett Moore, at whose suggestion the work was undertaken, and whose advice throughout has been unceasing, I feel my chief indebtedness; and I take this occasion to express my high appreciation of the privilege of having enjoyed for a considerable period their counsel on the general principles of public law. S. B. C.

WASHINGTON, D. C., May, 1904.

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INTRODUCTION

NAPOLEON III of France and Francis Joseph of Austria, each exercising of his own right sovereign powers, met and signed, July 11, 1859, the preliminary peace of Villafranca. A treaty thus concluded is perfected as an international compact immediately upon the signing. The Holy Alliance, which was, however, of a peculiarly personal nature, was likewise signed in person September 26, 1815, by the sovereigns of Russia, Prussia and Austria. The secret treaty of Tilsit of July 7, 1807, although not signed by the sovereigns themselves, embodied the results of the personal conference on the Niemen between the Czar Alexander and Napoleon I. For states, other than those in which the sovereign power is legally centered in a single person, to meet in their sovereign capacity, is quite inconceivable. The organization and powers of the agency through which such a state contracts are defined by its fundamental law, or constitution. Although in the ultra-democratic movement of 1793 in France, propositions were made to require the submission of treaties to the people, as sovereign, for approval, such a requirement is hardly to be contemplated. The delegation of authority to enter into treaties must of practical necessity be final, and an obligation constitutionally contracted is binding on the entire state. The determination of the agency in the different states intrusted with this power is the first step in a work on treaty-making.