Chapter Seven

THE SOCIETY IN THE FIFTIES

What we have are a variety of ‘international’ laws and an anarchy of diverse, contending orders – orders proclaiming and embodying the values of human dignity in very different degree, and aspiring to application and completion on many different scales of international, regional, and global compass.

—Myres S. McDougal
“Perspectives for an International Law of Human Dignity,”
53 ASIL Proceedings 107-08 (1959)

A. THE OLD MODEL AND GRADUAL CHANGE

1. The Model as it Then Was

As the previous chapters have recounted, there was plenty of tinkering with the Society’s mode of operations from shortly after its inception through the two World Wars, and beyond. But the framework remained essentially the same. There was a President who performed ceremonial functions and in some cases became at least moderately involved in the Society’s affairs, but the day-to-day administration was in the hands of a single person who also had other responsibilities: James Brown Scott, then George A. Finch, followed by Pitman B. Potter. Even Eleanor H. Finch, who became Executive Secretary in 1948 and who was from then on a full-time employee of the Society, had to split her time between the Society, as such, and the Journal. There was little opportunity for reflective thinking about new programs or other changes that might energize the Society, or about how any new programs might be financed if the Society’s traditional patron, the Carnegie Endowment, was not willing to dole out the funds.

In this setting, the Society could do little more than present an Annual Meeting, publish its Journal, and engender committee reports. These endeavors were hardly insignificant. The Annual Meeting and the Journal were especially important fora for the serious development of ideas about what was commonly called the law of nations. But the absence of any other regular means of developing ideas or of Society expression was becoming increasingly stultifying during the
1950s, at least in the minds of some of the more policy-oriented members. The traditional model changed, but only gradually, throughout the decade.

2. Opportunities to Provide Expertise

In 1951, the U.N. Committee on International Criminal Jurisdiction prepared a report containing the committee’s Draft Statute for an International Criminal Court.¹ The United States government, like the governments of other U.N. Member States, was asked to comment on the report. The Acting Legal Adviser of the State Department sent the Society the U.N. Committee’s report. He requested that the report be studied by appropriate groups within the Society so the Department could have the benefit of any comments the Society might wish to make. The Executive Council considered the request at its meeting on December 1, 1951. Its only response was to refer the report and Draft Statute to the Society’s Committee on the Annual Meeting, apparently in deference to the Society’s practice of declining to take positions on controversial subjects.²

The Committee on the Annual Meeting did not include the report or Draft Statute in the agenda of the 1952 Annual Meeting, though it did arrange for a paper to be given on the impact of international law on the individual. The paper did not deal with an international criminal court, but Vespasian V. Pella, a long-standing advocate of such a court, spoke from the floor on the subject.³ That was the sum total of the Society’s response to the State Department’s request for the Society’s expertise, unless one counts individual contributions on the subject in the Journal.⁴

It was another missed opportunity for the Society, stemming from its chronic lack of adequate funds or staff – one might even say, its lack of vision. An ad hoc committee, selected with an eye to the known diversity of views of its members,

⁴ See Quincy Wright, “Proposal for an International Criminal Court,” 46 AJIL 60 (1952); Finch, supra note 2.