THE CENTENARY OF THE INSTITUT DE DROIT INTERNATIONAL

By Edvard Hambro

1. The peace movement – or perhaps rather peace movements – were very active in the latter half of the nineteenth century. The idea of an international “academy”, “institute” or “association” of international lawyers was in the air. And in the year 1873 both the Institut de Droit international and the International Law Association were founded, to a large extent by the same persons. The year has a certain significance. The Franco-Prussian war had shattered beautiful illusions and destroyed hallowed dreams. On the other hand the Alabama case had raised new hopes for the future of international arbitration.

The Institute was founded in Gand in Belgium on September 8, 1873. The aim of the Institute was and still is to work for the maintenance of peace and for the progressive development of international law. In 1873 the Institute wanted to become the organ of the legal conscience of the civilized world – “l’organe de la conscience juridique du monde civilisé”, and today, at bit more modestly, it wants to “répondre à la conscience juridique du monde civilisé”. Today, as hundred years ago, the Institute works for the triumph of the principles of justice and humanity – “triomphe des principes de justice et d’humanité qui doivent régir les relations des peuples entre eux”.

1. The International Law Association is treated in another article in this review. See p. 18.
2. The founders – the names of whom are printed in every Annuaire of the Institute – are: Mancini (Roma), Asser (Amsterdam), Besobrasoff (St. Petersburg), Bluntschli (Heidelberg), Carlos Calvo (Buenos Aires), David Dudley Field (New York), Emile de Laveleye (Liège), James Lorimer (Edinburgh), Moynier (Genève), Pierantoni (Napoli) and Gustave Rolin-Jaquemyns (Gand).

The decision to commemorate the founders in this way was taken during the fiftieth anniversary session in Gand in 1923.

3. The aims of the Institute were drawn up, in the following way at the foundation:

I – Statuts votés par la Conférence Juridique internationale de Gand, le 10 Septembre 1873. Article 1. – L’Institut de droit international est une association exclusivement scientifique et sans caractère officiel.

Il a pour but:
1. De favoriser le progrès du droit international, en s’efforçant de devenir l’organe de la conscience juridique du monde civilisé;
2. De formuler les principes généraux de la science, ainsi que les règles qui en dérivent, et d’en répandre la connaissance;
3. De donner son concours à toute tentative sérieuse de codification graduelle et progressive du droit international;
4. De poursuivre la consécration officielle des principes qui auront été reconnus comme étant en harmonie avec les besoins des sociétés modernes;
5. De travailler, dans les limites de sa compétence, soit au maintien de la paix, soit à l’observation des lois de la guerre;
6. D’examiner les difficultés qui viendraient à se produire dans l’interprétation ou l’appli-
The Institute is and has always been an exclusively scientific institution without any official character. As shall be seen later in this article this has been reflected in its membership and its deliberations.

2. After these first hundred years it is natural to ask whether the Institute has played any important role or whether it has become an esoteric association of distinguished persons.

The Institute has adopted an impressive number of Resolutions. In the enumeration in the annuaire after the Zagreb Session in 1971 figure 96 Resolutions on questions of public international law and 65 on private international law.

Two more Resolutions were adopted in Rome in 1973 so that the final number is now 163.

The Institute has in the past hundred years had 51 sessions in spite of the fact that there was a pause of 6 years without sessions during the first world war and a ten year pause due to the second world war.

It is very difficult, indeed nearly impossible, to assess accurately the influence exercised by the Institute as an organisation.

It is probable, and also generally recognized, that the Institute and its members have played an important part in the development of international arbitration. It may perhaps also be permitted to assume that the work of the Institute has not been entirely without importance for the development of the laws of warfare such as they were adopted by the two Hague Peace Conferences where some of the most influential members of the Institute participated.

(This question of the importance of the individual members and their influence shall be treated later in this article.)

The deliberations of the Institute have also – it is believed – been important for the development of the law of nationality and for the international law of checks and bills of exchange.