

SIXTH SESSION

Saturday, April 26, 1958, at 10:00 a.m.

BUSINESS SESSION

The session convened at 10:00 o'clock a.m. in the Congressional Room of the Statler Hilton, President ROBERT R. WILSON presiding.

President WILSON stated that during the past year the Society had lost through death some of its ablest members. As the first item of business there would be presented some memorial statements for these departed colleagues.

Mr. WILLIAM CULLEN DENNIS presented the following memorial regarding Mr. George A. Finch, an Honorary Vice President of the Society and Honorary Editor-in-Chief of the AMERICAN JOURNAL OF INTERNATIONAL LAW:

GEORGE A. FINCH

George A. Finch has left us in the fullness of his strength and usefulness. Measured by modern standards he had many years ahead. He was only seventy-two years old, but of these seventy-two years he was privileged to devote over fifty years, more than half a century, to his life's work—the study and development of international law and the advancement of peace through justice founded on law.

This work was done as civil servant and public officer, as teacher, lecturer, author, editor, and practitioner. But most of all it was done as the Secretary of the AMERICAN SOCIETY OF INTERNATIONAL LAW and as Managing Editor and Editor-in-Chief of the AMERICAN JOURNAL OF INTERNATIONAL LAW, during his long service as Secretary, Director of the Division of International Law, and Trustee, of the Carnegie Endowment for International Peace.

George Finch was intimately associated with the beginnings of this Society and with the great men who were its founding fathers and he served the Society continuously and to the very end of his life. His services were simply invaluable. For many years when the members of the Society thought of the Society they instinctively thought of George Finch. His loving labor is woven into the lasting fabric of our Society and will always be remembered.

George Finch had in a high degree: ability, industry, loyalty, kindness, and courage. Most of all he had character. He was a truly good man in every relation of life, not only in his profession, but as husband, father and citizen. "He did his duties every one," and he did them unselfishly. He was greater than the sum of all his great qualities.

Mr. DENNIS, on behalf of the Committee consisting of Lester H. Woolsey, Charles G. Fenwick, Stanley K. Hornbeck, Charles E. Martin and himself, moved that the American Society of International Law adopt as its own the foregoing statement; that this statement be spread upon the records of

the Society; and that the Secretary send a copy to the family of their departed colleague.

The motion was unanimously adopted by a standing vote.

Secretary EDWARD DUMBAULD presented the following memorial prepared by Mr. John N. Hazard regarding Professor Clyde Eagleton, a member of the Board of Editors of the JOURNAL.

CLYDE EAGLETON

The American Society of International Law extends to the family of their late fellow member, Clyde Eagleton, their heartfelt sympathy and sense of loss.

Clyde Eagleton's enthusiasm for international organization for which he was one of the best informed and most persuasive proponents has been a stimulus to the activities of the Society for many years. His annual reports at this meeting as Chairman of the Society's Committee on Study of Legal Problems of the United Nations became a primary source of information on this topic for all members of the Society.

His editorials for twenty years in the Society's JOURNAL and his distinguished texts on international law and organization justly gained for him the plaudits of the world and enhanced the reputation of the Society and of American legal scholarship generally.

His participation in the management of the affairs of the Society as a member of its Executive Council and later as Chairman of the Nominating Committee of the Society in its fiftieth anniversary year brought to the Society the counsel of a thoughtful and understanding man. But most significantly, to many of his juniors in the Society his comradely manner earned for him a favored place in their affection as teacher and friend.

The memorial was adopted by unanimous standing vote.

Judge DUMBAULD next presented the following memorial to Judge John J. Parker, Chief Judge of the Circuit Court of Appeals, Fourth Circuit:

JUDGE JOHN J. PARKER

Judge John J. Parker, of Charlotte, N. C., died suddenly in Washington on March 17, 1958 at the age of 72. Among the practicing legal profession, he was one of the most active in the field of international law. Besides his membership in this Society, where he often spoke at various meetings and functions, he was delegate of the Section of International Law to the House of Delegates of the American Bar Association, and often brought a practical, sane, and good-humored contribution to the deliberations of that body when it became involved in theorizing in an unfamiliar area. In 1943 he was awarded the American Bar Association Medal for conspicuous service in the cause of American jurisprudence. In 1946 he was named a bencher of the Inner Temple.

He served as Alternate American Judge at the Nürnberg War Crime Trials at which another member of this Society, Justice Robert H. Jackson, was Chief United States Prosecutor. It was Judge Parker who on one occasion there, when a Russian representative offered a toast to the speedy execution of the defendants, remarked: "I will not drink a toast to the

conviction of any man, regardless of his guilt, before I hear the evidence.” Judge Parker also gave a very excellent and acute comment on the significance of those trials in these words:

Justice Jackson made a great contribution to civilization in the work that he did in connection with the Nürnberg trial. It was not merely that he brought to bear on the case his great forensic skill and ability, not merely that he supervised the marshalling of the evidence and directed a prosecution employing hundreds of men, but that it was his vision and genius that brought the International Military Tribunal into being and made possible the punishment as criminals of those who had been guilty of crimes of an international character which had shocked the conscience of humanity. There have been those who doubted whether Justice Jackson should have left his position on the Supreme Court to engage in this work. It is a sufficient answer to their doubts that if he had not undertaken the work, it would never have been done and that nothing that he could have been called upon to do on the Supreme Court compared with it in importance. No American lawyer of less stature than a justice of the Supreme Court could have undertaken the task with any hope of success; and in carrying it through he reflected honor upon the Supreme Court and upon the country at large. (Eugene C. Gerhart, *America's Advocate: Robert H. Jackson* (1958), 360, 448.)

Judge Parker was himself appointed to the Supreme Court by President Hoover in 1931, but there was opposition to his confirmation on account of his opinion in *U.M.W.A. v. Red Jacket Consolidated Coal & Coke Co.*, 18 F. (2d) 839 (4th Cir. 1927) upholding the legality of the so-called “yellow dog” contracts. Justice Owen J. Roberts was thereupon appointed to this vacancy.

Judge Parker was born in Monroe, North Carolina, on November 20, 1885. He received his A.B. at the University of North Carolina in 1907 and his LL.B. in 1908. Practicing in Greensboro, Monroe, and Charlotte, he was prominent in Republican politics in that State. In 1923 and 1924 he served as Special Assistant to the Attorney General of the United States, and in 1925 was appointed by President Coolidge to the Circuit Court of Appeals of the Fourth Circuit. He was one of the best-known and best-loved members of the Federal Judiciary throughout the nation.

The memorial was adopted by unanimous standing vote.

Mr. DENYS P. MYERS then presented the following memorial to Dr. Ellery C. Stowell, one of the original members of the Society and a former member of the Board of Editors of the JOURNAL:

ELLERY CORY STOWELL

Ellery Cory Stowell, who died at Berkeley, California, January 1, 1958, was an original member of the American Society of International Law, which was founded in New York on January 12, 1906. Mr. Stowell joined the Society on July 28, 1906, while a student in Paris.

Ellery was a teacher, and once he found that out, he devoted 36 years of his life to instructing successive generations of university students in international law. To say that he was a natural teacher is only to recall the enthusiasm with which he expounded the principles of his subject both in

the classroom and in the splendid private library which overran his capacious home. Students might forget what he taught, but they never forgot the teacher.

Mr. Stowell was born in Lynn, Massachusetts, December 12, 1875, and after taking a bachelor's degree at Harvard in 1898, spent three years as a chemist with a rubber company and as a bank clerk. He traveled in the Orient, Russia and Europe for two years and in 1903 studied at the University of Berlin. The next year he went to Paris where he took a degree at the Ecole Libre des Sciences Politiques and in 1909 a doctorate at Paris. In the meantime he had been a secretary at the Second Hague Conference in 1907 and at the London Naval Conference in 1908-1909 with the American Delegation. That service proved to him that he was not a bureaucrat.

In Washington he was secretary of a College of Political Sciences while instructing at George Washington University in 1908-1910. He was at the University of Pennsylvania, 1910-1913, at Columbia University from 1913 to 1918. He was appointed professor of international law at American University in 1922 and built up a department of international affairs, of which he was chairman from 1935 to 1944, when he retired. He was unhappy at Columbia and fully found himself at American University.

His Paris thesis of 1909 was entitled *Le Consul*, and in preparing it he began a notable collection of international law books that were eagerly bought up when offered in New York after his retirement. During the war of 1914-1918 he published two volumes of *International Cases* and a book on the *Diplomacy of the War of 1914*. Then in 1921 he brought out a volume on *Intervention in International Law*, in which he sought to break new ground. Ten years later he made what he regarded as his own contribution in our field. His *International Law* (1931) in Holt's *American Political Science Series* is subtitled "a restatement of principles in conformity with actual practice." The subtitle is accurate, though in his blazing "a new trail" neither theorists nor realists can always recognize that fact. In 800 pages Stowell recast international law on the thesis that "checking of sovereignty by the exterior exercise of sovereignty is known as intervention" and enforcement of rights is interventional, so that intervention limits sovereignty. Multilateral institutions exemplified "collective intervention." Stowell was particularly proud of his chapters on the procedural law of intervention.

Ellery Stowell was an original thinker. The best tribute to his integrity is to re-examine his thought in the context of the present.

The memorial was adopted by a unanimous standing vote of the members.

Professor HARDY C. DILLARD presented the following memorial to Mr. Samuel K. C. Kopper, a member of the Executive Council of the Society:

SAMUEL K. C. KOPPER

The untimely death on June 4, 1957, of Samuel K. C. Kopper, then forty-three years old, cut short a career rich alike in accomplishment and promise.

Born in New York, he graduated from Princeton in 1937 and from the University of Virginia Law School in 1940. While attending the latter

institution, he was greatly influenced by the brilliant English scholar, John W. Wheeler-Bennett, then temporarily on its staff. The latter's imaginative and probing dissection of many contemporary international problems fed and stimulated an interest which the youthful Kopper had already manifested at Princeton.

It was said of Sam Kopper that, as a student in the Law School, he treated every orthodox, bread-and-butter course with casual disdain while giving to all courses touching international matters an eager, discriminating and passionate devotion. It was not surprising, therefore, that he should join the Department of State some three years after his graduation.

His eleven years with the Department were marked by the assumption of constantly increasing areas of responsibility, affording him unusual opportunities to observe and participate in the formulation of foreign policy. This was particularly true of his assignment as adviser to the United States delegation to the United Nations Security Council and General Assembly from 1946 to 1949 and his later position as Deputy Director of the Office of Near Eastern Affairs.

In 1952 he resigned from the Department to become deputy publicity director of the National Volunteers for Stevenson. Following the election, he joined the legal staff of the Arabian-American Oil Company and was, at the time of his death, Assistant to the Chairman of the Board. It was while on the staff of ARAMCO that he received a diploma at the Hague Academy of International Law.

His interest in international law and foreign policy problems was not confined to the practical side. He contributed to theory through a number of articles chiefly concerned with proposals, which in the main he did not favor, of imposing United Nations controls on restrictive business practices and international cartels. As an active member of this Society, he frequently participated in its annual meetings and, at the time of his death, he was a member of its Executive Council.

Into a too brief life, marked throughout by deep concern over the delicate health of his wife, he achieved much. Yet, to those who knew him best, he will be remembered less for what he had done than for what he was: a man given to strong convictions, deep sympathies, and loyal friendships. In his death, the Society has lost a member whose personal qualities and professional achievements gave promise of steadily mounting influence and authority.

The memorial was adopted by unanimous standing vote of the members. The following memorials were also inserted in the record of the meeting:

HOMER S. CUMMINGS

Ripe in years and in gracious wisdom, Homer S. Cummings departed this life on September 10, 1956. He was born in Chicago on April 30, 1870. After graduation from Yale in the class of '91, he was admitted to the bar in Connecticut two years later. Combining public service with professional attainments, he served in various posts, including three terms as Mayor of Stamford, Connecticut, and as prosecuting attorney. In the

latter capacity, his declaration regarding the duty of a prosecutor, as one who seeks not victims but justice, was of wide influence and even became the theme of a motion picture.

Long prominent in the councils of the Democratic Party, he served for a time as National Chairman during the latter part of the Administration of Woodrow Wilson. At the 1924 convention he was Chairman of the Resolutions Committee. In the Roosevelt Administration he became Attorney General, temporarily it was supposed, upon the sudden death of Senator Thomas J. Walsh of Montana, who was to have held that office. But Attorney General Cummings handled the duties of chief legal adviser to the nation with such distinction that he continued in that post until his resignation in 1939, when he returned to private practice in Washington.

As Attorney General he sponsored numerous significant reforms, notably the Federal Rules of Civil Procedure and the establishment of an administrative office for the Federal Courts. Among important cases which he personally argued for the Government in the Supreme Court were the gold clause and holding company cases. A notable case which he won in the same court after his resignation from government service was the *Girouard* case in which he upheld the right of a conscientious objector to be naturalized as a citizen of the United States. Of particular interest to this Society was his service as an arbitrator in 1938 in the Beagle Channel Island case between Argentina and Chile. Tall and stately in physique, benevolent and ingratiating in manner, pleasant and melodious in speech, he was a figure of unusual charm and distinction.

LAWRENCE PREUSS, 1905-1956

When our colleague Lawrence Preuss died in his sleep in July, 1956, after a long period of ill health, we lost a world-renowned scholar and a strong friend of international law and of our Society. His host of articles in our *Journal* and other American and foreign legal periodicals covered most aspects of our field. He served for a decade as a member of our Board of Editors; he filled two terms on the Executive Council; and he spoke at our meetings, worked on our committees, and counted our Society as one of his deepest and most abiding interests. He always enjoyed our annual meetings. When not himself speaking or listening to the program, he was in the anterooms with his many friends of our profession from all parts of the world.

As a teacher, primarily at Michigan, for twenty-eight years he brought international law home to a great number of students, and imbued them with a real feeling for our subject. His wartime service with the Department of State, the United Nations War Crimes Commission, and the 1945 San Francisco Conference was significant.

His own standards of scholarship were high, he strove for meticulous accuracy, he was vigorous and articulate in support of what he believed right, and he possessed an extraordinary fund of knowledge concerning international law practice, treaties, cases, books and articles. He was a realistic appraiser of the international and national political scene, who never lost his faith in international law.

More than any other group, it is the American Society of International Law which should mark his passing from us less with grief than with gratitude that the science of international law, our organization, and so many of us personally have been enriched by his work and by his friendship with us.

Secretary DUMBAULD then presented the list of members of the Society who had passed away since the last annual meeting, as follows:

In Memoriam

- RUSSELL S. BACHMAN, Baltimore, Md., member since 1941, died December, 1957.
- Judge WILLIAM CLARK, Princeton, N. J., member since 1930, died October, 1957.
- CLYDE EAGLETON, Yonkers, N. Y., member since 1925, died January 29, 1958.
- JOHN A. EUBANK, New York City, member since 1942, died June, 1957.
- GEORGE A. FINCH, Chevy Chase, Md., member since 1910, life member since 1931, died July 17, 1957.
- JACOB H. GOETZ, New York City, member since 1923, died May 17, 1957.
- LEO B. KAGAN, New York City, member since 1947, died April 22, 1957.
- Brig. Gen. H. N. KENYON, USMC Ret., member since 1943, died January 1, 1958.
- SAMUEL K. C. KOPPER, Larchmont, N. Y., member since 1939, died June 4, 1957.
- WILLIAM W. LANCASTER, New York City, member since 1946, died July, 1957.
- LANGDON PARKER MARVIN, New York City, member since 1907, died October, 1957.
- WILLIAM CLARKE MASON, Philadelphia, Pa., member since 1944, died November 19, 1957.
- BARAK T. MATTINGLY, St. Louis, Mo., member since 1955, died August 21, 1957.
- ENRIQUE GUIRAL MORENO, Havana, Cuba, member since 1950, died August, 1957.
- SANGA NILKAMHAENG, Bangkok, Thailand, member since 1948, died April, 1956.
- Judge JOHN J. PARKER, Charlotte, N. C., member since 1943, died March 17, 1958.
- IGNATZ ROSENAK, New York City, member since 1943, died September 12, 1957.
- GEORGE RUBLEE, New York City, member since 1930, died April 26, 1957.
- JOHN DE R. STOREY, Homestead, Fla., member since 1939, died April, 1957.
- ELLERY C. STOWELL, Berkeley, Calif., member since 1906, died January 1, 1958.
- JOHN HAROLD SWAN, Sacramento, Calif., member since 1951, died July, 1957.
- T. A. TARACOUZIO, Pass-a-Grille, Fla., member since 1929, died March 4, 1958.

GUY A. THOMPSON, St. Louis, Mo., member since 1945, died January 26, 1958.

SHU-CHIN TSUI, Taipei, Taiwan, Republic of China, member since 1933, died July 17, 1957.

CHARLES H. WATSON, Chicago, Ill., member since 1916, died October 11, 1957.

President WILSON then called upon Professor Louis B. Sohn, who, following the untimely death of Professor Eagleton, was acting Chairman of the Committee on Study of Legal Problems of the United Nations. Professor Sohn presented an informal report discussing the jurisdiction of the International Court of Justice over legal disputes and particularly the reservations from the jurisdiction of the Court of matters within the domestic jurisdiction of states. The report recommended that the United States Government withdraw its reservation from its declaration of acceptance of the compulsory jurisdiction of the Court.

Mr. DENYS P. MYERS presented the report of the Committee on State Department and United Nations Publications (printed in the Appendix below), and in that connection presented the following resolution, which, upon his motion, duly seconded, and carried, was adopted:

DEPARTMENT OF STATE AND UNITED NATIONS PUBLICATIONS

Whereas, The members of the American Society of International Law in their several capacities as students, publicists, teachers and practitioners require an accurate knowledge of foreign relations as professional men and women and as citizens; and

Whereas, Such accurate knowledge is available only as the Department of State of the United States and such institutions as the United Nations provide the records of their action through the publications they issue; therefore,

Be It Resolved by the American Society of International Law:

1. That the Society welcomes the publication of *American Foreign Policy, 1950-1955: Basic Documents*, and urges that present plans to continue the series annually be made a permanent policy of the Department of State;

2. That the full record of our diplomacy, as represented by the "Foreign Relations" series, be made available to the public as soon as possible, in accordance with the principles of "historical objectivity" as laid down in Regulation 045 of March 26, 1925, amended on October 31, 1955. It appears that problems of clearance are at present a serious obstacle to the publication and release of many volumes that are compiled. The Society urges the Department of State and other interested agencies, within the limits of national security, to follow a liberal policy of clearing the diplomatic papers in these volumes as expeditiously as possible, with a view to providing our public with the maximum possible information and thus promoting widespread understanding of our foreign policy in this critical era;

3. That in preparing a further *Digest of International Law* the high standard of scholarship established in the Moore *Digest* of 1906 should be the criterion, and that the Department of State might usefully appoint a professional advisory committee with that end in view. The Society notes with satisfaction the progress made in assembling material and requests the Secretary of State to provide adequate person-