

SIXTH SESSION

Saturday, April 29, 1961, at 10:00 a.m.

BUSINESS SESSION

The session convened at 10:00 o'clock a.m. in the East Room of the Mayflower Hotel, Washington, D. C., President Charles E. Martin presiding.

Judge Edward Dumbauld, Secretary of the Society, read the list of members who had passed away during the year.

In Memoriam

ARTHUR IRVING ANDREWS, Lower Warner, New Hampshire, member since 1911, life member since 1944, died November, 1960.

ARTHUR A. BALLANTINE, New York City, member since 1954, died October 10, 1960.

WILLIAM H. BEST, Boston, Massachusetts, member since 1917, died October 28, 1960.

JOHN T. BINKLEY, Los Angeles, California, member since 1957, died August 13, 1960.

EDWARD H. BROWN, Jeddah, Saudi Arabia, member since 1953, died 1960.

MAHESH CHANDRA, University of Virginia, student member since 1959, died August, 1960.

WADE H. COOPER, Washington, D. C., member since 1925, died July 21, 1960.

SAMUEL B. CRANDALL, Andover, New York, member since 1907, died August 29, 1960.

EDWIN D. DICKINSON, St. Helena, California, member since 1914, died March 26, 1961.

J. ALVIN DREILING, Georgetown University, Washington, D. C., member since 1956, died November 7, 1960.

BENEDICT M. ENGLISH, Washington, D. C., member since 1940, died March 14, 1961.

VERMONT HATCH, New York City, member since 1952, died May, 1960.

JACOB J. KAPLAN, Boston, Massachusetts, member since 1933, died August 8, 1960.

DAVID B. KARRICK, Washington, D. C., member since 1947, died August 6, 1960.

IVAN S. KERNO, Long Island, New York, member since 1948, died April 15, 1961.

ARNOLD W. KNAUTH, New York City, member since 1939, died October 14, 1960.

KENKICHI KODERA, Kobe, Japan, life member since 1908, died April, 1960.

- P. E. KRICHBAUM, Washington, D. C., member since 1950, died January 16, 1961.
- Sir HERSCH LAUTERPACHT, Cambridge, England, member since 1931, honorary member since 1955, died May 8, 1960.
- L. D. LOCKWOOD, Menlo Park, California, member since 1945, died September 26, 1960.
- ROBERT B. LOOPER, University of Illinois, member since 1960, died December 1, 1960.
- G. T. MCCONNELL, Brooklyn, New York, member since 1960, died September 13, 1960.
- ALFRED E. MCLANE, Dallas, Texas, member since 1945, died March 16, 1960.
- J. BLANC MONROE, New Orleans, Louisiana, member since 1939, died April 20, 1960.
- Rev. EUGENE J. MORIARTY, St. Paul, Minnesota, member since 1949, died June 7, 1960.
- PHILIP B. PERLMAN, Washington, D. C., member since 1949, died July 31, 1960.
- DARDO REGULES, Montevideo, Uruguay, member since 1947, died January 23, 1961.
- ALBERT E. REITZEL, Washington, D. C., member since 1941, died June 30, 1960.
- WALTER SCHÄTZEL, Bonn, Germany, member since 1959, died April 9, 1961.
- KENNETH W. TIPPING, New York City, member since 1956, died November 23, 1960.
- PETROS G. VALLINDAS, Athens, Greece, member since 1946, died February 10, 1960.
- JONKHEER W. J. M. VAN EYSINGA, Leiden, Holland, member since 1928, honorary member since 1933, died January 26, 1961.
- HOBART NADING YOUNG, Stanford, California, member since 1928, died January 18, 1961.

The members rose and observed a moment of silence.

EDWIN D. DICKINSON

Professor BRUNSON MACCHESNEY. Mr. President, members of the Society:

I want to pay a personal tribute to my old friend and first teacher in international law, Edwin D. Dickinson, 1887–1961, who died on March 26. As a teacher and scholar, and as a part-time government servant from time to time, he rendered notable contributions to the development of international law and the training of international lawyers. He was educated at Carleton and Dartmouth, and subsequently received both a Ph.D. at Harvard, and the degree *Juris Doctor* from the University of Michigan Law School. He thus had the desirable and not frequent combination of training in political science and history and the discipline of the law. He taught at the University of Michigan from 1919 to 1933, where

I personally had the pleasure of taking his seminar in international law, in which Professor Bishop participated as his teaching assistant. He came to the University of California in 1933, becoming Dean of their law school shortly thereafter, and served there with war-service absence until 1948. He then moved to the University of Pennsylvania to spend the remainder of his active teaching and scholarly career in that institution, although he subsequently taught for a time at Hastings. During the second World War he served as a special assistant to the Attorney General, working on alien enemy registration problems; he was briefly with UNRRA, and participated in the San Francisco Conference. He was a member of various international bodies, including service as a member of the Permanent Court of Arbitration at The Hague. He was not only active in our field, but he was a distinguished law teacher and administrator, who taught not only public international law, but also conflicts and admiralty. He served as President of the Association of American Law Schools in 1949, and as President of this Society in 1952 and 1953. He was the publisher of two important casebooks in the field of international law. His early monograph on the *Equality of States in International Law* and his later lectures at Northwestern University in 1950 called "Law and Peace" were other significant contributions to the literature. He was a superb teacher, a warm friend, and a learned man. We shall all miss his counsel and friendship and always honor his memory in gratitude for his devoted service to the cause of international law and justice.

President MARTIN. I have a special feeling toward Dean Dickinson. To most of us he was Ed. Those of us who survived the famous Carnegie International Law Professors' trip in 1926 will remember fondly that he was the head of our mission, and his lovely wife was the hostess of our mission to Paris and to the League of Nations and to various parts of Europe on that very fine occasion. For another thing, he came West and spent a large share of his professional and teaching life in the Western part of the United States, and that of course appeals to me. Probably I was closer to him than almost any other member of the Society. I mean I was closer to him, not he closer to me. It is with great regret and sorrow that I note his passing.

Secretary DUMBAULD presented the following memorial:

JONKHEER W. J. M. VAN EYSINGA

Honored bearer of a title to rank among the nobility of The Netherlands, Willem Jan Mari van Eysinga is best known internationally by virtue of distinctions earned by his ability and character: as diplomat, historian, professor of international law at the University of Leyden and Judge of the Permanent Court of International Justice.

He was born on January 31, 1878, and won doctorates in law and political science in 1902 and 1906 respectively. His thesis was an authoritative study of Dutch constitutional and statutory provisions concerning the law

of treaties, *Proeve eener inleiding in het Nederlandsch tractatenrecht*. A later book deals with Dutch treaties since 1813. Many other valuable publications followed, particularly on international rivers and Hugo Grotius. A collection of his articles was published in 1958, on the occasion of his eightieth birthday, entitled *Sparsa Collecta*. His brief biography of Grotius is the most useful work on the subject available, and consolidates in concise form the fruits of vast erudition.

His first service in the Ministry of Foreign Affairs of The Netherlands was in its legal and political division during the years 1902–1908. From 1908 to 1912 he was professor of Dutch constitutional law and of international law at the University of Groningen. From 1912 to 1930 he was professor of international law and diplomatic history at the University of Leyden. From 1931 to 1946 he was Judge of the Permanent Court of International Justice. (In that connection it is of interest that he was a member in 1920 of the commission to draft the Court Statute and was president of the Conference in 1926 of signatories to the Court Statute to consider the reservations of the United States. He had also represented his country at the conference of neutrals in 1919 to consider the draft Covenant of the League of Nations.) During the second World War he was the only member of the Court in residence at or near The Hague, and was very active in insuring that the Germans during the occupation maintained a correct attitude with regard to the functioning of the International Court. Frequently, due to breakdown in transportation and living conditions in The Netherlands at the time, it was necessary for him to walk from Leyden to The Hague and back in order to perform these duties for the maintenance of proper respect for the international authority of the Court.

Judge van Eysinga was also a member of the Permanent Court of Arbitration, and of several bilateral conciliation commissions.

He was a member of the Central Commission for Navigation of the Rhine from 1910 to 1930, and from 1920 to 1930 served on the Dutch Delegation to the meetings of the Assembly of the League of Nations. From 1921 to 1930 he was a member of the League's Commission on Communications and Transit, having also served as Dutch delegate to the Barcelona Conference on that subject in 1921.

Judge van Eysinga held many honors in his own country, including membership in the Royal Academy of Arts and Sciences. He became a member of the American Society of International Law in 1928 and was elected an honorary member in 1933.

His death on January 24, 1961, took from the world of international law one of its ablest luminaries, still vigorous and active after many years of achievement. His successful career as a practicing diplomat, as well as scholar, was based upon the traits so characteristic of his countrymen, a friendly interest and willingness to be helpful in promoting the common good of all, combined with a sturdy insistence that right and justice be maintained. Many members of this Society were personally acquainted

with Judge van Eysinga (the late Judge Manley O. Hudson in particular often spoke of him), and will join his four surviving children and his nation in mourning the loss of a cherished companion.

Mr. DENYS P. MYERS presented the following memorial:

SAMUEL B. CRANDALL

Samuel B. Crandall was born in 1874 and died August 29, 1960. There are probably very few of our members now who remember him at all, but he was one of the very early graduate students of John Bassett Moore when he took the post of Hamilton Fish Professor of International Law at Columbia, and produced the first thesis which has survived out of the many that Judge Moore provoked. Mr. Crandall did a thesis on *Treaties, Their Making and Enforcement*, which was published in 1904, at a time when he was an officer in the Department of State. He had been there since 1902. The book was a fairly small one. It was brought out in a second edition in 1916, which is the one with which most of us are doubtless familiar, a greatly enlarged book which has become a standard work in our field. Mr. Crandall was for a number of years in the Department of State. He was secretary, about 1906, of what was called the Citizenship Board, the head of which was James Brown Scott. David Jayne Hill, long a Vice President of this Society, who was then an Assistant Secretary of State, was a member of it. Mr. Crandall remained with the Department of State and the Government for a number of years. He had been retired for the last 25 years and had been lost to sight in our meetings, but he was a regular and faithful member until death.

Mr. HOWARD J. TAUBENFELD presented the following memorial:

IVAN S. KERNO

It is with very great sorrow that all those associated in the work of the United Nations have learned of the sad news of the death of Ivan Kern. He was one of the true pioneers of the United Nations, who, having gained unequalled experience in the Secretariat of the League of Nations, and in the diplomatic service of his country, had actively participated in the 1945 San Francisco Conference and the work of the United Nations Preparatory Committee which followed. Appointed as the First Assistant Secretary General for Legal Affairs, he organized the legal activities of the Secretariat and directed their development for seven years. In these and other respects, he made an invaluable and lasting contribution to the work of the organization. After retiring at the statutory age, he continued to devote his time and energy to administrative committees entrusted with tasks important for insuring the fair and efficient progress of the organization of the Secretariat. His interest and devotion to the constructive development of international law and true co-operation between nations remained unflinching. Together with many others, we wish to salute the memory of this distinguished servant of the international community.

JUDGE SIR HERSCH LAUTERPACHT

Professor QUINCY WRIGHT. This occasion ought not pass without a comment on the late Judge Lauterpacht, an honorary member of our Society. I have corresponded with him frequently during the last thirty years, and enjoyed the hospitality of himself and his charming wife. I suppose we would have to regard him as the outstanding British contributor to international law in the last generation. In the preparation of documentation and also in the publication of books and articles, he was in a category with the late Judge Manley O. Hudson and Judge John Bassett Moore. Judge Lauterpacht was for many years the editor of the *Annual Digest of International Law Cases*, and also of the *British Year Book of International Law*, both outstanding source materials for our subject. He wrote books on *Recognition in International Law*, on *International Law and Human Rights*, and on the *Development of International Law by the World Court*, as well as other books and many articles. He contributed important articles to the *American Journal of International Law*. He was a member of the International Law Commission and later Judge of the International Court of Justice. He also advised the British representative at the Nuremberg Tribunal.

Judge Lauterpacht was a man of very friendly disposition and powerful intellect. He was a pioneer in what might be called idealistic thinking in the field of international law, coupled with acute criticism. He felt that broad principles ought continually to contribute to the development of our subject, but also that these principles should be thoroughly documented by the specific materials. He thus combined the recognition both of broad principles and positive materials in the tradition of Grotius. International law has lost a major expositor and contributor in the death of Judge Lauterpacht.

President MARTIN. Last year there was the posthumous award to Judge Lauterpacht, the Judge having passed away after we made our award to him at the annual meeting. The memoir about Judge Lauterpacht has been published in the *Journal*.

Professor KENNETH S. CARLSTON. I want to add one sentence only. Judge Lauterpacht was the first positivist who dealt with how a judge been published in the *Journal*.*

ARNOLD W. KNAUTH, 1890-1960

In the death on October 14, 1960, of Arnold W. Knauth, the American Society of International Law lost an active worker and expert in its field. He had distinguished himself in admiralty and aviation law as a lawyer, teacher, author and editor. He served as Secretary and Treasurer of the Maritime Law Association from 1930 to 1937, and as Chairman of the Association of Average Adjusters of the United States in 1940. He was Chairman of the American Bar Association Committee on Admiralty Law

* See Philip C. Jessup and R. R. Baxter, "The Contribution of Sir Hersch Lauterpacht to the Development of International Law," 55 A.J.I.L. 97 (1961).

from 1949 to 1953, and in 1958 succeeded the late Clyde Eagleton as Chairman of the International Law Association Committee on the Use of Waters of International Rivers. He was also adjunct associate professor of law at New York University. He had been a United States member of the International Technical Committee of Air Law Experts, known as CITEJA, which drafted a number of conventions on private international air law prior to the establishment of the Legal Committee of the International Civil Aviation Organization in 1947. From 1943 to 1947 he was Admiralty Attorney in the Department of Justice.

Mr. Knauth served as chairman of the Society's Committee on Co-operation with the International Law Association and the American Branch, and made the arrangements for the Society's co-operation in the activities of the 48th Conference of the International Law Association held in New York City in 1958. He served on the Executive Council of the Society from 1956 to 1959, and was chairman of the Society's Committee on Nominations in 1959-1960. His last appearance before the Society was in April, 1960, when he participated in the program of the annual meeting and gave an illustrated lecture on the Indus River System. He was an honorary member of the Indian Society of International Law.

Mr. Knauth wrote numerous articles for periodicals, and was the author of *Ocean Bills of Lading*, which appeared in four editions, the last being published in 1953. He was editor, from its foundation in 1923, of *American Maritime Cases*, of *U. S. Aviation Reports*, and of the *Digest of U. S. Maritime Law*. He also edited the sixth edition of *Benedict on Admiralty* in 1939, and *Griffin on Collision* in 1943. Mr. Knauth made notable contributions to admiralty law and international air law both in actual practice and publication of materials in the field.

The Society and the international legal profession have lost a warm friend and colleague.

BENEDICT M. ENGLISH

Professor MICHAEL H. CARDOZO. Many people who make their name in the field of international law do it through writing books, articles, and so forth, and become well known in that way, but there are those, usually in the Government, who in their day-to-day work, acting as bureaucrats, which I consider an honorable profession, make a great contribution to the kind of things that we in this Society are interested in. In the case of Ben English, for example, I am sure that when any of us read anything about claims, cases that have come up in the past, I don't know how many years, thirty or so—when we see treaties and agreements to which the United States is a party, involving claims of various kinds, Ben English's touch has been in there. He has made a contribution that is anonymous, but of great significance, I think, in our work.

Mr. JOHN G. LAYLIN. For thirty-five years, I worked with Ben English, but on opposite sides of the desk. I have never dealt with a man of greater integrity. He always wanted to do the right thing. I could not pay anyone a higher tribute.

The SECRETARY read the following proposed amendments to the Society's Constitution, as adopted by the Executive Council at its meeting on November 19, 1960, and submitted to the Society for action:

Resolved, That Article III, Paragraph 3, of the Constitution relating to life members shall be amended by striking the words "two hundred dollars" and substituting therefor the words "such amount as the Executive Council shall determine,"; and

Resolved further, That Article III of the Constitution be amended by adding the following paragraph before the paragraph relating to "Additional Classes of Membership":

Corporate Non-Voting Members. Upon the payment of such annual dues as the Executive Council shall determine, corporations, partnerships, associations, and organizations of such other kinds as the Executive Council may designate, may be elected members of the Society without the privileges of voting or holding office but with all the other privileges of membership, including receipt of the Society's publications.

Upon motion duly made, seconded and carried, the amendments were adopted.

The SECRETARY next presented the report of the Committee on Annual Awards, recommending that the Society award its Certificate of Merit to Professor Alfred Verdross, of the University of Vienna, for his treatise on international law, published in 1959 (4th ed.). The recommendation of the committee was unanimously adopted.

Professor JOHN N. HAZARD, Chairman of the Committee on Selection of Honorary Members, presented the recommendation of the committee that the Honorable Kotaro Tanaka, Judge of the International Court of Justice, and former Chief Justice of the Supreme Court of Japan, be elected an honorary member of the Society. The recommendation of the committee was unanimously adopted and Judge Tanaka was elected an honorary member of the Society.

Mr. DENYS P. MYERS, Chairman of the Committee on Publications of the Department of State and the United Nations, presented the report of the committee, of which Dr. Ivan S. Kerns had been a member. Mr. Myers paid a tribute to Dr. Kerns for his contributions to the work of the committee. In connection with the report of the committee, Mr. Myers moved the adoption of the following resolution:

RESOLUTION ON PUBLICATIONS OF THE DEPARTMENT OF STATE
AND THE UNITED NATIONS

The American Society of International Law at its 55th Meeting,
After reviewing the publication program of the Department of State which since 1929 has expanded to meet the needs of the public and of the specialists in foreign relations and which has annually been scrutinized for this Society,

Considers

That the progress made in compiling and producing the *Digest of International Law* by the Department of State is gratifying and trusts that, as a result of continuing support both by funds and staff, publica-