

a unilateral estimate of interests or expediency at any particular moment by any particular state. With most of what Professor Brown said I am in profound agreement. He talked about basic interests. To my mind the method by which the conflict of basic interests is solved is a reference to the legal rule. The legal rule eventually adapts itself to prevailing concepts of social expediency. There is always a time-lag between the change in the notion of what is expedient and the change in the rule. I must refer here to the work of Scelle, for example, for further detail upon that point. The question of whether or not a rule has changed is a question for an impartial tribunal to decide, and what the impartial tribunal has to decide is not what at the moment is expedient, but what at the moment is the prevailing conception of expediency; and it will look for evidence of the prevailing notion of expediency in precisely those sources which any arbitral tribunal now searches through in looking for the *ratio decidendi* of any case.

Chairman REEVES. The Chair regrets that the time has expired for this further discussion, and in order to complete the agenda for the business meeting we shall now proceed.

BUSINESS MEETING

It has been for some years the custom of the Society at the beginning of its business sessions to have the Secretary read the names of those of our membership who have died during the year, and the Chair will ask the Secretary to read a list of these members. Will the members please rise while this list is being read?

Secretary FINCH: Mr. Chairman and members of the Society: The following members have passed away since I had the sad duty of performing this same function last year:

IN MEMORIAM

CHARLES HENRY BUTLER, Washington, D. C. Original member. Date of joining not recorded. Died February 9, 1940.

FRANCIS J. CARNEY, Boston, Mass. Joined Society Oct. 16, 1933. Died in 1939.

ALGERNON R. CLAPP, Philadelphia, Pa. Joined Society Jan. 24, 1934. Died in April, 1938.

FREDERICK F. DUMONT, Lancaster, Pa. Joined Society May 10, 1928. Died June 4, 1939.

ALEXANDER P. FACHIRI, London, England. Joined Society Dec. 11, 1928. Died March 28, 1939.

HAROLD HIRSCH, Atlanta, Ga. Joined Society Sept. 7, 1920. Died Sept. 25, 1939.

FRANK L. HORTON, Chicago, Ill. Joined Society May 19, 1939. Died Nov. 22, 1939.

- WILLIAM I. HULL, Swarthmore, Pa. Joined Society July 7, 1908. Died Nov. 14, 1939.
- E. BERT JOHNSON, Worcester, Mass. Joined Society Jan. 25, 1915. Died January, 1938.
- MERRITT LANE, Newark, N. J. Joined Society Feb. 25, 1930. Died June 23, 1939.
- ADMIRAL J. L. LATIMER, Washington, D. C. Joined Society April 14, 1922. Died June 4, 1939.
- CHARLES NAGEL, St. Louis, Mo. Joined Society July 18, 1907. Died Jan. 4, 1940.
- A. WARNER PARKER, Washington, D. C. Joined Society March 2, 1934. Died March 30, 1939.
- JAMES W. S. PETERS, Washington, D. C. Joined Society May 4, 1936. Died in 1938.
- ALBERT L. RABB, Indianapolis, Ind. Joined Society April 13, 1917. Died Sept. 13, 1939.
- JOHN L. WARREN, Boston, Mass. Joined Society May 16, 1931. Died January, 1939.
- CHARLES S. WESLEY, Philadelphia, Pa. Joined Society Oct. 4, 1920. Died October, 1939.
- CYRIL WYNNE, Washington, D. C. Joined Society May 25, 1922. Died Sept. 25, 1939.

Chairman REEVES. The Chair will now recognize Mr. Nielsen to present a memorial to the late Charles Henry Butler.

Mr. FRED K. NIELSEN. I recollect that some time ago I called at a hospital where Mr. Butler was then ill. I found him cheerful and dauntless. With that spirit he closed his long, useful career, I heard his cordial friend and pastor say, at a beautiful service attended by the Chief Justice of the United States and other members of the Supreme Court. When I visited the hospital, I offered to convey a greeting from Mr. Butler to his fellow members on the Executive Council which was about to meet, and I was a little puzzled why my offer should not have been accepted. When I reached the assembly room, I learned the reason. Mr. Butler's name preceding mine on the alphabetical list, I found that over the telephone he was just reporting "present" to Dr. Scott who presided.

As one who had a long, delightful acquaintance with Mr. Butler and who often enjoyed the charm of his conversation, frequently illumined by references to interesting incidents of his contacts with eminent men and important events, I have the privilege of recording a brief statement concerning the life and services of our honored fellow member.

Charles Henry Butler was one of the founders of the American Society of International Law. I think it may well be said that the Society has had no more loyal, enthusiastic member.

He attended Princeton University, which conferred on him an honorary degree of Master of Arts. He was admitted to the practice of law in the State of New York in 1884 and had a distinguished career at the bar of that state and at the bar of the District of Columbia.

He was a member of the committee for arrangements for the celebration in 1890 of the centennial of the first session of the Supreme Court of the United States and a member of the committee of the American Bar Association for the observance of the court's sesquicentennial on February 1, 1940. He was reporter of the opinions of the Supreme Court of the United States from 1902 to 1916, and published volumes 187 to 241 of the reports of the court.

Mr. Butler was a legal expert to the commission which under a protocol of 1898 considered problems between the United States and Great Britain in relation to Canada, and he was attached to the American delegation to the Second Hague Conference of 1907. His work in two volumes, *The Treaty Making Power of the United States*, is a product of intensive labor and high scholarship.

For a long period he was chairman of the Executive Council of the American Society of International Law. And his fellow members cherish in particular memories of his effective interest in the Society and of the fine, native courtesy and kindness which ever characterized his friendly comradeship with them.

Chairman REEVES. Will Senator Thomas, a Vice-President, be good enough to come forward and take the Chair for a while?

(Senator Elbert D. Thomas took the Chair.)

Chairman THOMAS. Dr. Herbert Wright will offer a memorial statement for Cyril Wynne.

Dr. HERBERT WRIGHT. It was my privilege to be acquainted with Dr. Wynne ever since he first came to Washington, and he frequently introduced me to his friends as his closest personal friend in Washington. It is with considerable feeling, therefore, that I offer these remarks.

As reported in the papers at the time, the country, the Department of State, and, I may add here, the American Society of International Law, suffered a grievous loss in the passing of Dr. Cyril Wynne, Chief of the Division of Research and Publication of the Department of State. He brought to his work in the Department an exceptional background. He rendered gallant service in the American Expeditionary Force in France, followed by service with the American Peace Mission in Paris, a two-year tour of duty at our Embassy in Tokyo, and a tour of teaching duty at Harvard before entering the Department of State in 1929.

His contribution to the work of the Department has been an important and a lasting one. He had an unusual understanding of the needs and interests of the American public for published information with regard to the foreign affairs in which the United States was interested. He frequently

appeared before the Bureau of the Budget and committees of Congress and was successful in persuading these bodies of the desirability of a more extended but reasonable publication program for the Department of State. In all of these endeavors he applied his innate energy and his forcefulness of character, his resourcefulness and his never-say-die spirit. He was ever sympathetic to the endeavors of the Committee of the Society, even when he did not agree personally with some of its specific proposals, and the accelerated program of the scholarly publication of the *Foreign Relations*, as well as the other publications of the Department, constitute an enduring monument to his memory.

His loss, while none the less serious, is only assuaged by the appointment of his faithful and industrious assistant, Dr. E. Wilder Spaulding, as his successor.

Chairman THOMAS. Next is the report of the Committee on Codification of International Law. Dr. Borchard!

REPORT OF COMMITTEE ON CODIFICATION OF INTERNATIONAL LAW

Professor EDWIN BORCHARD. Mr. Chairman, this Committee, by acquiescence of all its members, has decided not to make a report this year, because of various facts having to do with the material.

Chairman THOMAS. Are there any questions or any other remarks?

The Report of the Committee on Publications of the Department of State, Dr. Herbert Wright, Chairman.

REPORT OF COMMITTEE ON PUBLICATIONS OF THE DEPARTMENT OF STATE

Dr. HERBERT WRIGHT. Your Committee is prepared to make a brief report at this time, and expects to have a complete report to submit for the *Proceedings*.

As I have already indicated, we feel very seriously the loss of Dr. Wynne. We received from him the utmost coöperation, but we are gratified, however, that Dr. Spaulding, his assistant for over nine years, with long experience under Dr. Wynne, and who has coöperated ever since, has taken his place.

The Committee has operated as in previous years. Since many of the members of the Committee were at distant points from Washington, they corresponded with me and acquainted me with their views, and made me feel free to call upon them from time to time whenever I needed a helping hand. I have incorporated their views in this report.

The appropriations for 1941 for printing and binding total \$237,000, a decrease of \$8,000 under the budget estimates, but an increase of \$11,500 over the amount listed for 1940. The chief items in this \$8,000 reduction are the elimination of \$5,000 for cultural relations pamphlets and the reduction from \$4,500 to \$2,500 for trade agreements pamphlets.

The total appropriation for 1941 includes the continuation of the *Foreign Relations* volumes. The Department of State, as you know, has published