

hereafter be conditioned upon the existence of a treaty of extradition with the other party or upon reciprocity of conduct.

The first of these provisions virtually obliges the parties to put counterfeiting on the list of offences which, according to their law or treaties, are extraditable, in case it is not already there. The second provision will have the effect of modifying the practice of the Anglo-Saxon countries which ordinarily extradite offenders only upon condition of reciprocity. Another article obliges the parties to seize and confiscate counterfeit currency as well as all instruments or articles used in connection with counterfeiting.

Finally, to mention only the more important provisions of the convention, an attempt is made to organize a system of international collaboration through the creation in each state of a central office which shall be a depository of information useful for the prevention, detection and punishment of counterfeiting, which should keep in touch with the similar offices of other countries, and which should keep one another informed of issues of new currency and of withdrawals from circulation of old currency, of discoveries of counterfeit money and of other matters likely to be of interest to the public authorities in the discharge of their duties in connection with the prevention and punishment of counterfeiting.

The convention is to come into force when it is ratified by five states, and it is agreed that any disputes arising among the parties relating to its interpretation or application, and which are not settled by diplomatic negotiation, shall be referred to the Permanent Court of International Justice for decision, or in the case of disputing states which are not parties to the Permanent Court protocol, to Arbitration if they prefer.

J. W. GARNER.

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JUDGE EDWIN B. PARKER

On October 30, 1929, Judge Edwin B. Parker passed away. His death, terminating an important international judicial activity, is a serious loss to the world, and especially to the field of international law and relations.

As Umpire of the Mixed Claims Commission, United States and Germany, as War Claims Arbitrator, and as sole Commissioner of the Tripartite Claims Commission (United States, Austria and Hungary), Judge Parker exercised a responsibility, both by reason of the subjects with which he dealt and the amounts involved, almost unique in the annals of international arbitration. He was first appointed American Commissioner of the Mixed Claims Commission; but on the death of Judge Day very early in the proceedings of the Commission, he was appointed Umpire. For a time also he served as a Commissioner of the Mixed Claims Commission, United States and Mexico. As Umpire of the Mixed Claims Commission, United States and Germany, and as sole Commissioner of the Tripartite Claims Commission, he had, as an American citizen, the major responsibility of passing

upon all claims of American citizens against former enemies of the United States, under treaties of peace imposing broad liabilities. This was not the first time that a national of one of the parties in litigation had been appointed umpire. The fifth commissioners in the arbitrations held under Articles VI and VII of the Jay Treaty (1794) were, respectively, a British subject and an American citizen. Bates, Umpire of the British-American Commission under the Treaty of 1853, was an American. Lieber, Umpire of the Mexican-American Commission under the Treaty of 1868, was an American. Illustrations could be multiplied. But these commissions dealt with fewer claims, much smaller in total amount, than those over which Judge Parker presided.

Judge Parker early made it clear that as a judge he regarded himself as denationalized, and he lived up to the fullest measure of this self-denying ordinance. On the assumption of his office as the American appointee on the Mixed Claims Commission, United States and Mexico, he declined to assume the usual title of American Commissioner and maintained that the title "Commissioner" better reflected his function as an impartial judge. That he discharged the delicate functions of his office with exceptional skill, objectivity, learning and ability is an opinion universally entertained by those familiar with his judicial activity. Unostentatious and an indefatigable worker, he handed down decisions and opinions which won the admiration of students of international law. This is all the more remarkable because prior to his service as Chairman of the United States Liquidation Commission in France in 1918-1919, he had had but little experience in the practice of international law. By nature a just and judicially-minded man, combining natural gifts as a lawyer with the qualities of a student and a statesman, he discharged the most exacting requirements of his office in a manner calculated to bring credit upon the institution of international arbitration and upon the United States as a country in whose integrity foreigners may repose trust. It is safe to say that his objectivity and fairness in the most important cases, involving immense sums and important legal principles, accomplished much to heal the wounds of war and reestablish international confidence between the United States and its former enemies.

The Mixed Claims Commission, United States and Germany, had before it in 1923 some 12,000 claims, running to amounts in excess of \$1,000,000,000, both figures unprecedented in claims commissions. Judge Parker early realized that some orderly yet speedy procedure must be devised for disposing of this vast number of claims if the commission was to be terminated within measurable time. He, therefore, undertook to segregate certain large and general questions which first required determination, handing down in this connection what he called "administrative decisions." This group of administrative decisions, dealing with the liability of Germany under various conditions of fact and law arising in cases before the commission,<sup>1</sup> is

<sup>1</sup>Discussed in this JOURNAL, Vol. 19 (1925), p. 133; Vol. 20 (1926), p. 69.

among the finest examples of analytical reasoning to be found in arbitral decisions. His opinions on such questions as the measure of damages, interest, proximate cause, are a distinct contribution to international law, if not also to municipal law. He affirmed repeatedly that he was defining obligations under a treaty which imposed liabilities beyond those authorized by international law. Nevertheless, in case of doubt, he resorted to international law to resolve the difficulties and did so in a fashion to win general approval. His analysis of the problems connected with the nationality of claims and the date when American nationality had to be established met general approval. While scientific differences of opinion with a few of his minor legal conclusions may be possible, such as his view on expatriation in connection with the Rothmann case before the Tripartite Claims Commission, or on the possibility of American claims arising through injuries inflicted upon foreigners, nevertheless it will probably be universally conceded that few commissions can point to such a series of consistently well-reasoned and clearly expressed opinions on subjects in certain respects novel in international law. Indeed, the decisions of such questions as the meaning of the term "naval and military works or materials," on the liability of Germany for war risk insurance premiums paid by American citizens, on the claims for life insurance payments accelerated through the death of victims of German belligerent acts, required not merely the mind of a lawyer, but the experience and common sense of a statesman and a man of affairs. Judge Parker's lifetime of practical equipment in dealing with large affairs and the broad judgment without which such activity is impossible, probably constituted as important a factor in the satisfactory solution of complicated problems before the commission as any other single characteristic.

By virtue of these fundamental or administrative decisions, the two agents were able, by application of their principles, to agree on the bulk of the cases before the commission; and thus it happened that all but a few of the more complicated claims had been disposed of at the time of the Settlement of War Claims Act of 1928. Under that Act, however, new claims were permitted to be filed, so there are now pending some 3,000 additional claims still to be disposed of.

Judge Parker completed his work as Tripartite Claims Commissioner in 1928, passing as sole judge upon claims of American citizens against Austria and Hungary amounting to several million dollars. In the report of Dr. Ernst Prossinagg, Austrian Agent, tribute is paid to the unimpeachable objectivity and high-mindedness of Judge Parker. This tribute is repeated in an article printed in the *Neue Freie Presse* of Vienna, November 9, 1929.

As War Claims Arbiter passing upon the claims of Austrian and German ship-owners and patent-owners against the United States for compensation for requisitioned vessels and patents, Judge Parker had labored long in preparation for his final decisions. But death cut short the handing down of finished opinions. He had handed down one fundamental opinion on the

meaning of the term "merchant vessel"; and it is perhaps proper to say that, in spite of the realization during the last few months of his life that the hand of fate lay upon him, he nevertheless worked as vigorously as failing health permitted, to complete his decisions in the ship cases. There is about this something tragic and heroic, not without significance in estimating the character of the man.

During these last busy years of his life, his executive ability had been drawn upon for service by numerous quasi-public organizations. He had been made a Trustee of George Washington University and of the Carnegie Endowment for International Peace, and had acted as Chairman of the Executive Council of the American Society of International Law and as Chairman of the Board of the Chamber of Commerce of the United States.

In his closing days, indeed on September 9, 1929, he endowed international law and relations with a final gift. He had by his life enriched both. He would now by his death open the opportunity for public service in the broadest sense to those who could profit by training. He, therefore, provided in his will that the bulk of his estate was to be left in trust, to be administered by a Board of Supervising Trustees, for the founding of a Graduate School of International Affairs to be connected with some university, in order to teach "high-minded young men, of proven character and ability, subjects calculated thoroughly to equip them to render practical service of a high order to the Government of the United States in its foreign relations, or to financial or industrial institutions engaged in foreign trade or commerce whose activities indirectly affect international relations." The Parker Endowment, if it achieves the object of its founder, will thus perpetuate public services which have brought to Judge Parker and to the United States honor and universal respect.

EDWIN M. BORCHARD.