

PERSPECTIVES

Award of the Leonard J. Theberge Prize for Private International Law to Sir Joseph Gold*

Introduction by
Joseph P. Griffin**

As many of you know, in 1982 the ABA Board of Governors created a special award in memory of Leonard J. Theberge, one of our distinguished Section Chairmen who died at a tragically early age. The award is presented annually "to an individual judged by the Section of International Law and Practice to have performed distinguished services in the field of international law." It serves to recognize both the individual's accomplishments and the growing importance of international law. Recipients are selected on the basis of long-standing contributions to the development of international law through active participation and the formulation of international agreements or otherwise developing public understanding in this area. This year's recipient is Sir Joseph Gold. Sir Joseph's many distinctions and accomplishments are too numerous to begin to list here. Among the highlights of his distinguished career relevant to this award are the fact that he joined the legal department of the International Monetary Fund (IMF) in 1946 and rose through the ranks to become General Counsel and Director of the Legal Department in 1960. In 1979 he retired from that position and became Senior Consultant of the IMF. While on the staff, he was principal draftsman of the First Amendment of the Articles of Agreement of the IMF, which created the SDR, and of the Second Amendment, which revised the Articles after the termination of the par value system. He represented the IMF in various international bodies, including bodies that were involved in reform of the international monetary system. He is the author of numerous books and articles that are considered to be among the most valuable on their various topics. In January 1980, he was knighted by Queen Elizabeth II.

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I will not quote from all of the many testimonials we have received upon the announcement of this award. Perhaps the following quotations will give you a flavor of the other testimonials.

Lester Nurick, a former General Counsel of the World Bank, said:

In the early days of the Fund, and the World Bank, none of us was quite sure how to deal with the new problems these new institutions created for lawyers. There was the intellectual challenge these problems created. They were novel and difficult and we took keen delight in trying to deal with them. Your writings clearly show their broad scope and complexity. No serious lawyer can deal with these issues without consulting your work, which has been a monument to the application of unceasing study and rigorous analysis to this large body of issues.

The current Vice President and General Counsel of the World Bank, Ibrahim F. I. Shihata, said:

International law has been greatly developed by your contributions, and we are all the richer for it. Your many insights and elaboration of unique and innovative legal concepts have become milestones along the road to further progress. Your thinking continues to resonate in our understanding of such concepts as the international monetary system, the SDR, the par value system, the "soft law" of exchange arrangements, exchange rates in international law and organization, decision-making based on qualified and weighted voting in international organizations, the standby arrangement, policy conditionality, uniformity in the law of the Fund, trust funds in international law and order in international finance.

The way that you have met your special responsibilities, both during your tenure of the position of General Counsel of the Fund and thereafter by your continuing contributions of scholarship to international law, have set an impressive and inspiring example of lifetime achievement for international lawyers.

Remarks by Sir Joseph Gold

Mrs. Theberge, President MacCrate, Chairman Griffin, Members of the Council of the Section of International Law and Practice of the American Bar Association, Ladies and Gentlemen.

I must pay immediate homage to the memory of Leonard Theberge, a former Chairman of the Section, in whose name the award is made this evening. I did not have the privilege of knowing him, but all I have heard about him has made me realize more than ever the weight and importance of the award. I am profoundly grateful to the Council for the action it has taken. I realize, of course, that the award expresses the Section's commitment to the substitution of the rule of law for disorder in international relations. Nowhere has this disorder been clearer than in the area of

international economic relations that deals with money and finance. I have been involved in the effort to establish the rule of law in this area during the more than four decades of my association with the International Monetary Fund.

This is not the appropriate occasion on which to say much about the experience of lawyers working in an international organization in which the staff is composed largely of experts in disciplines other than the law. I will permit myself one reflection on that experience. Most of my colleagues have been economists. It is not surprising that their disposition is to assume that whatever is desirable as economic policy for the time being must necessarily be in accord with the constitutive treaty of the organization and the body of subordinate law it has developed by practice. This disposition has been evident even if a newly favored policy departs sharply from prevalent policy. The normal reaction of lawyers is to attempt to accommodate the views of their colleagues within the law if this is possible or to propose some modification of policy that can be accommodated. The task for the lawyer, then, is to ensure that teleological interpretation does not degenerate into *détournement de pouvoir* as our French friends would say.

Another impression I have is the desirability of expressing legal arguments and conclusions in a kind of legal Esperanto. The organ of the International Monetary Fund in continuous session is the Executive Board, at present a body of twenty-two persons drawn from different countries and diverse cultures. Behind them stand the governments, including their legal advisers, of more than 150 countries. It can be disastrous for the institutional lawyer to present his advice exclusively in the concepts and language of a single system of law, particularly the one in which he was trained. I remember, with some discomfort even now, one of my earliest appearances before the Executive Board. I made my presentation with some sense of satisfaction, but one of the Executive Directors reacted with the comment that no doubt I was unfamiliar with the Civil Law. It was not all that long ago that I had been required to study Roman Law as a compulsory subject for my first law degree.

I hope that the IMF's lawyers can take some credit for the fact that the organization is still alive and thriving notwithstanding the many vicissitudes through which the world and the institution have passed. The most convulsive of these was the collapse of the fixed exchange rate system, which had been the most striking innovation of the original Articles. We can be a little skeptical therefore about President de Gaulle's statement that treaties, like young girls and roses, last while they last.

I shall not behave with false modesty about the award made to me this evening. Dr. Johnson, one of my lifelong heroes, informed Boswell that false modesty was the most egregious form of boasting, because it showed

how much one could afford to cast away. I cannot afford to throw anything away.

Ladies and gentlemen, I have been told that the award is a lifetime achievement award. I shall regard it as a lifetime achievement award—so far. I intend to go on doing what I have been doing for many years. That remarkable man of letters Jorge Luis Borges once asked why he should start a new habit at his time of life. I hope that in persisting in old habits I will retain the Section's good opinion of me.

An English Lord Chancellor once said that silence and courtesy were among the most admirable characteristics of judges. This seems to me good advice for others as well. But before I lapse into silence let me express once again my deep gratitude for the award of the Theberge Medal to me.