

CHAIRMAN'S REPORT

In this Chairman's Report, your Chairman wishes to review the major activities and accomplishments of the Section during 1965-66, to set forth present Section projects and to preview our plans and hopes for 1966-67. Since the minutes of the Council meetings will no longer be published separately, this report will also contain a summary of the actions of the Council and the business session at the Montreal meeting.

1965-66 in Review

Three major projects were initiated during the past year—the compilation of reports of the scope and objectives of all Section committees; the reexamination and revision of our official Section publications; and the organization of Section seminars and institutes. A number of additional activities and events are also of sufficient importance to warrant mention.

Scope and Objectives Reports

In 1965, your Chairman requested each chairman of the Section's 59 committees to submit a statement on the scope and objectives of his committee. It was hoped that these reports would prevent an overlapping of committee responsibility and would enable Section members to select committee assignments more easily. The response was excellent. Most of the reports were received by our Chicago Mid-Year Meeting in February. At the Montreal meeting, your Chairman was able to report that these summaries would be available for publication in the second issue of *The International Lawyer* and also for possible distribution to present and future Section members as a separate reprint. The scope and objectives reports will be accompanied by a form on which Section members may indicate their preferences for committee assignment.

The International Lawyer

Original responsibility for evaluating our Section publications was given to an Ad Hoc Committee on Publications with Joe C. Barrett as its chairman. At the Mid-Year Meeting, this committee recommended that the *Proceedings* of the Section be abandoned, that the *Bulletin* and *Proceedings* be combined in a new quarterly publication to be entitled *The International Lawyer*, and that the Roster of Members be printed either in *The International Lawyer* or separately. It was agreed by the Council that *The International Lawyer* would also

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contain the essential records of the Section, such as the text of resolutions passed and other documentary materials.

This publication has a new editorial board, new title, new format, new columns, and materials—all of which are designed to make *The International Lawyer* a source of information and stimulation in international and comparative law for members of the legal profession in general and members of our Section in particular. At the Spring Meeting in Washington, Clifford J. Hynning was appointed Editor-in-Chief for an initial term of two years.

Seminars and Institutes

An Ad Hoc Committee on Seminars and Institutes was appointed to present specific plans for seminars on topics in the fields of international and comparative law. These seminars would be sponsored by the Section and would be open to the public and members of the bar upon payment of a reasonable registration fee. On the motion of Judge Walter E. Craig, at the Mid-Year Meeting of the Council in Chicago, the Ad Hoc Committee was abolished and its functions were transferred to a new Committee on Continuing Legal Education. This committee, consisting of former Section Chairman Max Chopnick as its chairman, Judge Walter E. Craig, and Messrs. Benjamin Busch, Eberhard P. Deutsch, David F. Maxwell, Charles R. Norberg, and George W. Ray, Jr., submitted reports at the Spring Meeting in Washington and the Annual Meeting in Montreal. The committee is presently working on the establishment of seminars and institutes under the sponsorship of the Section. Section members will receive full information about these seminars and are urged to participate.

Meetings

The major meetings of the Section during 1965-66 consisted of the Mid-Year Meeting in Chicago on February 20, 1966, the Spring Meeting in Washington, D. C. on April 28-30, 1966, and the Annual Meeting in Montreal, Canada on August 6-10, 1966. Some of the officers and Council members also attended an ABA Section Chairmen's Conference in Chicago on October 15, 1965, which discussed organization, publications, meetings, budgeting, and other relevant matters.

Mid-Year Meeting

The Mid-Year Meeting featured reports from various Section committees including our Ad Hoc Committee on Publications with

recommendations for *The International Lawyer*; the appointment of a new Committee on Continuing Legal Education and a Joint Committee on Human Rights; passage of a resolution on the legality of the American position in Viet-Nam, which was adopted subsequently by the House of Delegates of the American Bar Association; and Council support for a report of the Committee on Protection of Foreign Investments and for a resolution that the American Bar Association apply for accreditation to the Office of Public Information of the United Nations as a Non-Governmental Organization, and that the President of the Association name a representative and alternate to the U.N. Office of Public Information. The resolution upholding the legality of the American position in Viet-Nam was widely publicized in the daily press.

Spring Meeting

The Washington Spring Meeting was held in conjunction with the Annual Meeting of the American Society of International Law. In addition to meetings of the Council, a luncheon at which Professor Milner spoke on "The Development of African Law" (next issue), and a membership meeting, the Section, through its Committee on Continuing Legal Education, presented a most interesting and informative discussion on the legality of the American position in Viet-Nam. The Council gave final approval to Clifford J. Hynning as Editor-in-Chief of *The International Lawyer*, expressed its thanks to Messrs. Theodore R. Kupferman and Max Chopnick for their distinguished service as editors of the *Bulletin*, and received reports from Section committees and plans for the Annual Meeting in Montreal.

Other Conferences

Two notable gatherings of individuals dedicated to finding ways and means toward international peace were held in Washington during the past year—the World Peace Through Law Conference on September 12-18, 1965, and the White House Conference on International Cooperation on November 28-December 1, 1965. Edward W. Kuhn, then President of the American Bar Association, and your Chairman represented the American Bar Association at the White House Conference.¹ Former Section Chairman, Max Chopnick, and your Chairman were designated to represent the American Bar Asso-

¹ A report on this Conference may be found in *52 American Bar Association Journal* 529 (June, 1966).

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ciation at the Department of State National Foreign Policy Briefing Conference on March 8-9, 1966. A number of Section members attended and participated in the Annual Meeting of the International Bar Association in Lausanne, Switzerland.

Annual Meeting in Montreal

Program

In conjunction with the Section of Mineral and Natural Resources Law and Section of Public Utility Law, the Section of International and Comparative Law sponsored panel discussions on the topics of "Water Planning for North America" and "International Energy Transmission." Featured speakers included: Henry P. Caulfield, Jr., Executive Director, U.S. Water Resources Council; Thomas C. Lynch, Attorney General of California; J. L. MacCallum, Legal Adviser, International Joint Commission; C. D. Shepherd, Chairman of the Board, British American Oil Producing Co., Ltd., of Toronto; and Walker L. Cisler, Chairman of the Board, Detroit Edison Company, Detroit, Michigan. Arthur Lang, Esq., Canadian Minister of Northern Affairs and Natural Resources, addressed the joint luncheon with the Sections of Mineral and Natural Resources Law and Public Utility Law.

The program on Wednesday, August 10, commenced with the Annual Joint Breakfast with the American Foreign Law Association. Professor L. C. Green of the University of Alberta, the principal speaker, gave an address entitled "An International Lawyer Looks at Comparative Law." Our Section also presented on Wednesday a program on "The Influence of Sea Power on International Law." Clifford J. Hynning, Vice-Chairman of the Division of Comparative Law, and your Chairman presided. Panelists were Rear Adm. Wilfred Hearn, U.S.N., Capt. Geoffrey Carlisle, U.S.N., and Lt. Cdr. Bruce Harlow, U.S.N.

Meeting of the Council

The Annual Meeting of the Council of the Section of International and Comparative Law was held on Saturday, August 6, 1966, in the Brittany Room at the Sheraton Mount Royal Hotel, Montreal, Canada. Officers and Council members in attendance were Edward D. Re, Chairman, Joe C. Barrett, Chairman-elect, Robert Layton, David M. Gooder, Clifford J. Hynning, Harry A. Inman, Helen L. Claggett, Ewell E. Murphy, Jr., George W. Haight, David F. Maxwell,

George W. Ray, Jr., Donald K. Duvall, William C. Farrer, Benjamin Busch, Judge Walter E. Craig, Charles R. Norberg, Max Chopnick, Victor C. Folsom, Edward W. Allen and Harry LeRoy Jones. Also present were Andrew G. Haley, Col. Edward Finch, Walter A. Slowinski, Sigmund Timberg, Judge Leonard v. B. Sutton, Gen. Martin Menter, Charles Shephard, Bruno Bitker, Col. George F. Westerman, Alfred Schweppe, Richard P. Brown, Jr., Owen Rice, Jr., and Malcolm R. Wilkey.

The Council recommended that the American Bar Association invite the President of the Inter-American Bar Association to the Annual Meeting of the American Bar Association; passed a motion that the Section would pay its pro rata share of the expenses of the Montreal multi-Section programs up to \$500.00; and authorized Donald K. Duvall to negotiate with Rothman Publishing Co. for the reprinting of Section publications.

Joe C. Barrett reported on arrangements for the 1967 Annual Meeting of the American Bar Association in Honolulu, Hawaii. He indicated that the Section will be located in the Hawaiian Village Hotel and urged members to make reservations early due to expected congestion in hotel facilities. Andrew G. Haley submitted a report on a proposed program dealing with outer space for the Honolulu meeting.

The Council agreed with a suggestion that the Committee on Arrangements and the Committee on Program Planning be combined into one committee entitled "Committee on Programs and Meetings." Ewell E. Murphy, Jr., was appointed Chairman of this committee with David M. Gooder as Vice-Chairman. The committee has full responsibility for the program and arrangements for the Honolulu meeting.

The afternoon session of the Council was devoted to reports and reorganization of Section committees. In order to prevent overlapping of functions and preserve clearly defined areas of responsibility, the Council voted to abolish the Committee on Social, Labor and Industrial Legislation, the Committee on Private Claims Against Governments, and the Committee on Treatment of Enemy Property in Wartime. The functions of the latter two committees will be assumed by the Committee on Foreign Claims of the International Law Division. The Council created a new Committee on Comparative Criminal Law. The Council appointed Dean Cecil Morgan as Chairman of the Committee on the Teaching of International and Comparative Law, Thomas Watters, Jr., as Chairman of the Committee on Diplomatic

and Consular Law, and Col. George F. Westerman as Chairman of the Status of Forces Agreement Committee. The name of the Committee on Relations with International Bar Organizations was changed to the "Committee on Relations with International and Foreign Associations of Lawyers." The Committee on Information and Publications was directed to decide on the separate printing of reports and publications of the Section and to suggest areas of inquiry to *The International Lawyer*.

The Council noted that the committees can achieve effective results only through the cooperation of Section members. Your Chairman indicated that the committee scope and objectives reports would be available for publication in *The International Lawyer* and also in pamphlet form.

Eberhard P. Deutsch presented the report of the Joint Committee on Human Rights Conventions. The Council, after having heard several interested persons, and after a thorough discussion of the entire area of human rights treaties, voted to recommit the matter to the Joint Committee for further study.

The Council reconvened on August 7. Reports were received from Clifford J. Hynning on *The International Lawyer*, George W. Ray, Jr., on the International Bar Association Meeting in Lausanne, Switzerland, Harry A. Inman on the Washington Marine Technology Conference, and Max Chopnick as Section Delegate to the American Bar Association and as Chairman of the Committee on Continuing Legal Education. Former Section Chairman Victor C. Folsom was appointed to the Committee on Continuing Legal Education.

The Council passed a resolution of the Committee on the Law of the Sea (Edward W. Allen, Chairman) dealing with the formulation of sound legal principles in the field of oceanography, and instructed the Section Delegate to seek the appropriate waiver to place the matter before the House of Delegates.² The resolution was submitted to and received the approval of the Council of the Section of Mineral and Natural Resources Law. The matter was then submitted to the ABA House of Delegates which approved the resolution, making it the official recommendation of the Association. A copy of the resolution as approved, is appended to this report.

A motion was passed that the Section file a brief amicus curiae before the Court of Appeals for the Second Circuit in the case of

² Senator Warren G. Magnuson has inserted the resolution in the *Congressional Record* of August 26, 1966, page A-4537.

Banco Nacional de Cuba v. Farr, Whitlock et al., supporting the principle that international law requires prompt and adequate payment for expropriated property and that this principle was violated by Cuba.

Thomas L. Farmer, General Counsel of the Agency for International Development, addressed the Council and requested the cooperation of the Section in arranging the exchange of lawyers from other countries and in the training of lawyers in other countries. The Council agreed that the Section would cooperate with AID in this matter and liaison with AID was assigned to Max Chopnick as Chairman of the Committee on Continuing Legal Education.

Business Meeting of the Section

The General Business Meeting of the membership of the Section was held on Sunday, August 7, in the Sheraton Room of the Sheraton Mount Royal Hotel. Reports were received from Divisional Vice-Chairmen and various committee chairmen. Section members passed motions accepting the committee reports, approving the filing of a brief amicus curiae in the *Banco Nacional* case, and approving the submission of the resolution of the Committee on the Law of the Sea to the House of Delegates.

Your Chairman expressed the gratitude of the Section to David M. Gooder and Ewell E. Murphy, Jr., for their efforts in making all arrangements for the Annual Meeting.

The second General Session of the Section convened in the Champlain Room on August 8. Harry A. Inman reported on the activities of the committees in the International Organizations Division, and Judge Leonard v. B. Sutton submitted a report for the Committee on Regional Courts. Joe C. Barrett stated that there had been an increase in Section membership of 6 per cent over last year. The members also passed a resolution authorizing the Committee on the Law of Outer Space to assist in the establishment of an aerospace institute.

Harry A. Inman presided over a symposium on the *South-West Africa* case recently decided by the International Court of Justice (infra, p. 12).

Report of the Nominating Committee

The Nominating Committee submitted the following names for election as Section officers: Edward D. Re, Chairman; Joe C. Barrett, Chairman-elect; David M. Gooder, James T. Haight, Clifford J. Hyn-

ning, and Harry A. Inman, Divisional Vice-Chairmen; and Robert Layton, Secretary. Ewell E. Murphy, Jr., Leonard C. Meeker and John R. Stevenson were nominated as new members of the Council for the term ending 1970. Max Chopnick was nominated as Section Delegate. The above-named officers, Council members and Section Delegate were unanimously elected by the membership.

The new Section Council met in executive session on August 10 for the purpose of discussing committee assignments, Section seminars, resolutions to be submitted to the House of Delegates, and Section projects during 1966-67.

Award to Charles S. Rhyne

On behalf of the officers, Council members and members of the Section of International and Comparative Law, your Chairman wishes to extend congratulations to Charles S. Rhyne of Washington, D. C., for receiving the American Bar Association Medal at the Annual Meeting in Montreal. This medal—the highest award of the American Bar Association—is presented annually to the member of the Association who had made outstanding contributions to the law and the legal profession. In addition to being a former Chairman of our Section, Mr. Rhyne is a past President of the American Bar Association and was Chairman of the Washington Conference on World Peace Through Law. He has gained international recognition for his efforts to achieve international cooperation and peace through the rule of law. Our sincere best wishes go to Charles S. Rhyne for this well-deserved tribute to his untiring efforts in the cause of peace and world understanding.

Projects and Prospects

Section Seminars

The first Section institute and seminar will be held in New Orleans, Louisiana, on March 31-April 1, 1967. The seminar is sponsored by the Section through its Committee on Continuing Legal Education and the subject of this seminar will be "The Problems of Lawyers in the Practice of International Law." Further information about this and other Section seminars will be found in subsequent Chairman's Reports.

Amicus Brief in Banco Nacional de Cuba Case

The Board of Governors of the American Bar Association granted our Section permission to file a brief amicus curiae before

the Court of Appeals for the Second Circuit in the case of *Banco Nacional de Cuba v. Farr, Whitlock et al.*⁸ This important project will be supervised by Dean Erwin N. Griswold of the Harvard Law School, who is liaison for our Section with the Board of Governors. The brief will be limited to the international law issues involved in this significant case, which were treated in the prior amicus curiae brief submitted when the case was heard by the Supreme Court of the United States.

Honolulu Meeting

Because of expected congestion in accommodations, the sections of the American Bar Association have been divided into two groups for the 1967 Annual Meeting in Honolulu, Hawaii. Our Section has been assigned the dates of August 5-9. We will be staying at the Hawaiian Village Hotel.

Ewell E. Murphy, Jr., Chairman of the new Committee on Programs and Meetings, and his committee are preparing a program on such tentative topics as recent developments in the law of oceanography and outer space. Participants in the outer space program will include American astronauts and other leading figures in space technology and exploration.

Committee Activities

An active Section implies active committees. This issue of *The International Lawyer* (p. 157) contains a list of the committees of our Section and also a form (p. 159) on which members may indicate their committee preferences. Your Chairman urges all Section members to study the list of committees and express their preferences for committee assignments. The wide variety of committee activity will enable each member to find a committee to which he wishes to contribute. The next issue of *The International Lawyer* will contain the scope and objectives reports of all Section committees, together with a list of committee chairmen.

Reelection of Present Administration

All of the officers of this administration were grateful for the vote of confidence expressed by their reelection. Your Chairman wishes to record a special debt of gratitude to all of the officers, Council members, and members of the Section who made possible

⁸ A discussion of the *Banco Nacional* case may be found in this issue of *The International Lawyer* on page 146.

the successes achieved during this past year. The responsibility implicit in this reelection at this crucial time increases daily by the growing importance of international problems and the role that must be played by lawyers in their just solution.

The potential role of the lawyer in assisting developing countries was demonstrated by Mr. Thomas L. Farmer, General Counsel of the Agency for International Development, when he addressed the Council at its Annual Meeting in Montreal.

The officers and Council members are constantly seeking new and better ways of improving the Section and the services that it renders. If any members have constructive suggestions concerning programs, policies or publications, they ought to convey them either directly to the Chairman or the appropriate committee chairman, divisional vice-chairman, Council member or officer. Such continued cooperation will be deeply appreciated.

EDWARD D. RE,
Chairman

SECTION OF INTERNATIONAL AND COMPARATIVE LAW SUPPLEMENT REPORT

Resolution

“WHEREAS, The vast natural resources in and under the high seas are becoming through technological progress increasingly available to mankind in ways until recently unforeseen, and

“WHEREAS, The formulation of sound legal principles in this field is a matter of great importance to the welfare and security of the United States, and can only be accomplished with full appreciation of the political, economic, and scientific factors involved,

“BE IT RESOLVED, By the American Bar Association that prior to framing any policy *vis-a-vis* other nations with respect to sea resources not covered by existing law, the United States Government be urged to review thoroughly the issues at stake in consultation with representatives of the American Bar Association and others competent in the field of international law, with scientific and technical experts, and with leaders of American industry interested in oceanic development.

“FURTHER RESOLVED, That copies of this resolution be sent to the Secretaries of State, Treasury, and Commerce and to the appro-

priate Committees of the Congress, and that the Chairman or other representatives of the Section of International and Comparative Law and of the Section of Mineral and Natural Resources Law be authorized to appear before said Departments and Committees in support of this resolution.”

Report

Great interest has been aroused throughout not only the United States, but other nations, concerning the magnitude of ocean resources—both those which are floating and those which are embedded in the bottom of the sea. This was prompted by the remarkable technological developments in connection with the use of such resources which are now taking place at an accelerating rate. Certain aspects of law as to the utilization of these resources are of questionable definitude and there is great urgency for clarification. Among these critical legal questions are the extent of coastal states' continental shelves and the rights to the seabed and the subsoil beneath the high seas.

The resources of the sea—mineral, fishing, water contents and otherwise—are believed to be enormous in quantity and value. All interests of the nation should receive the most careful consideration and there should be consultation with experts, scientific, legal and technical, before any position on these matters is formalized.

Because of current suggestions that these matters be referred to the United Nations, it is urgent that action be taken now to bring the views of the American Bar Association to the attention of the appropriate representatives of our government.

The Council of the Section of Mineral and Natural Resources Law approved the above resolution at its meeting today, August 7, 1966.

Respectfully submitted,

EDWARD D. RE,
Chairman