

THE AMERICAN LAW INSTITUTE

Minutes of the **Ninetieth** Meeting of the Council

March 11, 12, 13 and 14, 1953

The Council convened *in* the Byrne Room at the **Association** of the Bar of the City of New York at ten o'clock on Wednesday morning, March 11th, 1953. In the absence of the Chairman of the Council, Mr. George Wharton Pepper, the President, Mr. Harrison Tweed, presided, The Director, Herbert F. Goodrich, was Secretary of the meeting.

Present during the course of the meeting were:

- Francis M. Bird
- John G. Buchanan
- Howard F. Burns
- Herbert F. Clark
- R. Ammi Cutter
- Norris Darrell
- Edwin D. Dickinson
- Charles E. Dunbar, Jr.
- William Dean Embree
- James A. Fee
- H. Eastman Hackney
- Learned Hand
- Albert J. Harno
- William V. Hodges
- Joseph C. Hutcheson, Jr.
- Lawrence M. Hyde
- Joseph F. Johnston
- Monte M. Lemann
- Robert N. Miller
- John J. Parker
- Timothy N. Pfeiffer
- Frederick D.G. Ribble
- Eugene B. Strassburger
- Floyd E. Thompson
- Robert B. Tunstall
- Harrison Tweed
- Cornelius W. Wickersham
- Charles H. Willard

Also: Herbert F. Goodrich, Director
 Paul A. Wolkin, Assistant to the Director
 John E. Mulder, Director of Committee on
 Continuing Legal Education
 Charles D. Breitel

Professor Stanley S. Surrey and Dean William C. Warren were present for the discussion of the Income, Gift and Estate Taxes Project.

Professors Herbert Wechsler, Louis B. Schwartz and Paul W. Tappan were present to report on the Criminal Law project.

Professors William A. Seavey, Austin W. Scott and Willis L. M. Reese were present to report on revisions of Restatements of the Law of Agency, Trusts and Conflict of Laws respectively.

Professor Robert R. Bowie was present to report on the preliminary Investigation of the Anti-Trust and Patent projects.

REMARKS OF THE PRESIDENT

Mr. Tweed welcomed the members of the Council. He noted the unavoidable absence of the Chairman of the Council, Mr. Pepper, and read the text of a proposed telegram to him. Mr. Tweed noted that through the helpful generosity of the family of Mr. Byrne, the Trial Room where the Council was meeting had been renovated, air-conditioned and renamed the Byrne Room, for Mr. Byrne a former President of the Association of the Bar of the City of New York and a former member of the Council of the Institute.

Mr. Tweed then concluded his brief remarks and noted he would be commenting from time to time as other matters were discussed.

REPORT OF DIRECTOR, COMMITTEE ON CONTINUING LEGAL EDUCATION

John E. Mulder, Director of Continuing Legal Education, reported on the work of his Committee and the new activities which

it is undertaking. A copy of Mr. Mulder's report is contained in the Appendix to these minutes.

REPORT OF THE TREASURER

In the absence of the Treasurer, Mr. Earl G. Harrison, due to illness, the Director called attention to the following figures:

220 members paid 1952-53 dues of \$15.00 each	\$3,300.00
897 members paid 1952-53 dues of \$25.00 each	22,425.00
20 members paid 1952-53 dues of \$18.75 (part year)	375.00
<u>1137</u>	<u>\$26,100.00</u>
4 members paid 1951-52 dues of \$15.00	60.00
	<u>\$26,160.00</u>

He further reported that 27 members had not paid \$25.00 dues for 52-53; 9 had not paid \$15.00 dues for 52-53 and 6 members were two years in arrears.

He also reported that we had received cash dividends during the year of \$1,804.66 and a dividend in kind of 2 shares of Gulf Oil; Interest on savings accounts amounted to \$749.07 and there was due on bond coupons \$637.50. The yield from investments was \$3,191.23. The Final Quarterly Report of the Treasurer and an Annual Summary were made available to anyone interested. The reports are appended to these minutes.

REPORT OF THE DIRECTOR

The Director presented to the members of the Council his report, a copy of which is contained in the Appendix to these minutes,

BUDGET AMENDMENT

Upon recommendation by the Director the following resolution was unanimously adopted:

Resolution No, 1752 On motion, duly seconded,

RESOLVED: We hereby approve the increase suggested by the Director in the item RC r - salaries of Reporters In the Restatement Continued Budget for 1953 from \$8,000 to \$16,000.

COUNCIL MEMBERS

The following resolution was unanimously adopted:

Resolution No. 1753 On motion, duly seconded,

RESOLVED: Dean Erwin N. Griswold of Harvard Law School and Professor Charles Bunn of the University of Wisconsin Law School are elected to the Council of The American Law Institute to serve until their names can be presented to the Annual Meeting in May in accordance with the by-laws*

REPORT OF THE MEMBERSHIP COMMITTEE

Judge Joseph C. Hutcheson, Jr., Chairman of the Membership Committee reported to the Council as follows:

1. DUES

There are six -members whose dues have not been paid for two years:

Asa S. Allen, 100 Milk Street, Boston, Mass.
Francis M. Qua, - 306 Chalifoux Bldg., Lowell, Mass.
Paul W. Barrett, Supreme Court Bldg., Lowell, Mass,
Harry Heher, State House Annex, Trenton, N.J.
C. T. Marshall, 213 No. Parkview Ave., Columbus, Ohio
Dan W. Jackson, District Court, Houston, Texas

2. NEW MEMBERS

Thirty-eight new members had been recommended by the Membership Committee and elected by the Executive Committee since the May,

1952 meeting after proposals were received and canvassed:

CALIFORNIA:

Ralph N. Kleps - 3021 State Capitol Bldg., Sacramento

DISTRICT OF COLUMBIA

Milton I. Baldinger - 777 - 14th St., Washington
Richard Butler Barker - 306 Southern Bldg., Washington
Harold Hancock Cross - 532 Twentieth St. N.W., Washington
James Jacques Robinson - 100 Maryland Ave. N.E., Washington
John Thomas Sapienza - 701 Union Trust Bldg., Washington
Percy Atwood Shay - 2929 Connecticut Ave. N.W., Washington

ILLINOIS:

Urban A. Lavery - First National Bank Bldg., Chicago .

INDIANA:

Hubert Hickam - 1313 Merchants Bank Bldg., Indianapolis
Merle Hamilton Miller - 6145 Primrose Ave., Indianapolis

MARYLAND:

Eli Frank, Jr. - 1508 First National Bank Bldg., Baltimore

MASSACHUSETTS:

Edward Lester Schwartz - 10 State Street, Boston

MISSOURI:

Robert Lorenzo Howard - 209 Tate Hall, Univ. of Missouri
Law School, Columbia
Darrell D. Wiles - 408 Olive Street, St. Louis

NEW HAMPSHIRE:

Burt Randall Cooper - 195 North Main St., Rochester

NEW YORK:

Edward Kelly Hanlon - 15 Broad Street, New York
Peter Heinz Kaminer - 40 Wall Street, New York
Francis T. P. Plimpton - 20 Exchange Place, New York
Harry Silverson - 21 East 40th Street, New York
Daniel Gleason Tenney, Jr. - 15 Broad Street, New York
Eugene Untermyer - 30 Pine Street, New York
Henry S. Fraser - 500 Chamber of Commerce Bldg., Syracuse

OHIO:

Ell Goldston - 800 National City East 6th Bldg., Cleveland
Thomas L. Sidlo - Union Commerce Bldg., Cleveland

OKLAHOMA:

Bruce Havens Johnson - 1419 Sherwood Lane, Oklahoma City
Matthew John Kane, Jr, - Commerce Bldg., Pawhuska

PENNSYLVANIA:

Isaac Jacob Silin - 333 West 9th Street, Erie
Gilbert Nurick - Commerce Bldg., Harrisburg
Abraham L, Freedman - Packard Bldg., Philadelphia
Kenneth Wilfred Gemmill - 3027 W. Coulter St., Philadelphia
Donald James Farage - 121 So. Broad Street, Philadelphia
Nochem Samuel Winnet - 1732 Bankers Securities Bldg.,
Philadelphia
David Dean Johnson - 1312 Benedum-Trees Bldg., Pittsburgh
Charles Bernard Nutting - Cathedral of Learning, Pittsburgh

PUERTO RICO:

Frank Fernandez Cuyar - 901 Weymouth Street, San Juan

TEXAS:

John Henry Crooker, Jr, - 2420 Reba Drive, Houston
Tom Martin Davis - 1600 Esperson Bldg., Houston

WISCONSIN:

John Edward Conway - 1505 Wood Lane, Madison

3. PROPOSALS FOR MEMBERSHIP.

The following persons have been proposed for membership and their proposals have been canvassed and approved by the Membership Committee which recommends them to the Council for election as members of the Institute:

ALABAMA:

John Edward Thornton . 812 Merchants Nat'l. Bank Bldg., Mobile

CALIFORNIA:

James Douglass Adams - 351 California Street, San Francisco
Henry D. Costigan - 351 California Street, San Francisco
Vincent Cullinan - 107 W. Santa Inez, San Mateo
Burnham Enersen - 1500 Balfour Bldg., San Francisco
Walker Wallace Lowry - 331 California Street, San Francisco

DISTRICT OF COLUMBIA:

Joel Barlow - 701 Union Trust Bldg., Washington
Eugene Fitness Bogan - 1010 Vermont Ave. N.W., Washington
A. Marvin Braver-man - 512 Barr Bldg., Washington
Alexander Boyd Hawes - 1625 Eye St. N.W., Washington
Edwin McElwain - 3818 - 47th St., Washington
Elbert Tuttle - Wardman Park Hotel, Washington

FLORIDA:

Francis G. Rearick - 830 Seybold Bldg., Miami

GEORGIA:

Philip H. Alston, Jr., , 274 W. Paces Ferry Rd. N.E., Atlanta
Harry Stevens Baxter - 188 Colonial Homes Circle N.W., Atlanta
Thomas Hal Clarke - 18615th St. N.E., Atlanta
George Arthur Howell . 401 Haas-Howell Bldg., Atlanta

ILLINOIS:

John Dern - 11 South La Salle Street, Chicago

LOUISIANA:

Oliver Perkins Stockwell - 1.605 Shell Beach Drive, Lake Charles

MARYLAND:

Joseph Nicholas Shriver, Jr. - 610 -Mercantile Trust Bldg.,
Baltimore

MASSACHUSETTS:

John Dane, Jr. - 30 State Street, Boston
Alfred Gardner - 53 State Street, Boston
Charles Jackson, Jr, - 82 Devonshire Street, Boston
William Minot - 10 State Street, Boston
Louis Loss - 24 Highland Street, Cambridge

MINNESOTA:

Thomas P. Helmey - 1100 First Natl. Soo Line Bldg., Minneapolis

NEW JERSEY:

Jackson Rosse Collins - 212 Midland Ave. , Montclair

NEW YORK:

Christopher Baldy - 1330 Marine Trust Bldg., Buffalo
Allen T. Klots - 40 Wall Street, New York
Pearson E. Neman - 30 Broad Street, New York
William Curtis Pierce - 48 Wall Street, New York
Robert Szold - 30 Broad-Street, New York
William Wemple - 31 Nassau Street, New York

OHIO:

Richard Fullington Stevens - 1956 Union Commerce Bldg.,
Cleveland

OREGON:

Ralph Howard King - 02414 S. W. Military Road, Portland
Robert Yenney Thornton - Supreme Court Bldg., Salem

PENNSYLVANIA:

Herman Margolis Buck . 9 Derrick Ave., Uniontown
George L. Haskins - University of Pennsylvania Law School,
Philadelphia
Joseph D. Hughes - 525 William Penn Place, Pittsburgh
Israel Packel - 1000 Glrard Trust Bldg., Philadelphia
Thomas Wilson Pomeroy, Jr. - 1130 Oliver Bldg., Pittsburgh
John Evans Rose - 210 Creek Drive, Edgeworth
Morris M. Wexler - Market St, Natl. Bank Bldg., Philadelphia

TENNESSEE:

William Joseph Bowe - 2503 Kensington Place, Nashville

TEXAS:

Wilbur Lee Matthews - 1501 Alamo Natl. Bldg., San Antonio
James Glenn Turner - 1711 Mercantile Bank Bldg., Dallas
Frank McReynolds Wozencraft - 1600 Esperson Bldg., Houston

VIRGINIA:

Joseph Curt is - College of William and Mary Williamsburg
H. Brice Graves - 6024 St, Andrews Lane, Richmond
Laurens Hamilton Rhinelander - Belleville, Farmington,
Charlottesville

WEST VIRGINIA:

Seldon Spessard McNeer - 1000 First Huntington Natl, Bank Bldg.,
Huntington

4. RESIGNATIONS

The following members for **various** assigned reasons, have since the May 1952 meeting of the Council, submitted their resignations and their resignations have been recommended by the Membership Committee and accepted by the Executive Committee,

James A. Emmert, Indianapolis, Ind,
Francis **Biddle**, Washington, D.C.
John **J. Ford**, Los Angeles, Cal,
John **T. Noonan**, Boston, Mass.
F. L. Shipman, Troy, Ohio
John C. Street, Denver, Colo,
James **L. Taft**, Providence, R.I.
Fred L. Wham, Centralia, Ill.
Waldemar Q. VanCott, Salt Lake City, Utah

The following additional members have submitted **their** resignations and the Membership Committee recommends to the **Council** that their resignations be accepted:

Walter C. Capper, Cumberland, Maryland
Otis **S. Allen**, Topeka, Kan.
Frederic **R. Colie**, Newark, N.J.
James B. Drew, Florida
George **R. Farnum**, Boston, Mass.
Walter **S. Foster**, Lansing, Mich.
Ray B. Graves - Wisconsin Rapids, Wis.
Wm. Harold Hitchcock, Boston, Mass.
James **N. Hull**, Augusta, Ga,
Richard **N. Ivins**, Arlington, Va,
Matthew **J. Kane**, Pawhuska, Okla.
Philip **F. LaFollette**, Madison, Wis.
James **W. McClendon**, Fort Davis, Tex.
Henry **Parkman**, Boston, Mass,
J.C. Ruppenthal, Russell, Kan.
John **M. Sternhage**, Washington, D.C.
W. Denning Stewart, Pittsburgh, Pa,
Herman A. Vail, Cleveland, Ohio
L. R. Varser, Lumberton, N.C.
James **E. Wheeler**, New Haven, Conn.
Edward A. Zimmerman, Chicago, Ill.

It was agreed not to act on the resignations of Mr, Ruppenthal and Mr. Stewart.

The following resolutions were unanimously adopted:

Resolution No, 1754

On motion, duly seconded,

RESOLVED: The Council accepts the recommendation of the Committee on Membership regarding members delinquent in their dues and Instructs the Committee to **follow its usual course.**

Resolution No, 1755

On motion, duly seconded,

RESOLVED: The persons recommended by the Membership Committee for membership In the Institute **are** hereby elected to membership,

Resolution No, 1756

On motion, duly seconded,

RESOLVED: The **Council** accepts the resignations from membership of the twenty members submitted by the Committee **on** Membership,

FEDERAL INCOME ESTATE AND GIFT TAXES

Professor Stanley S. Surrey, Chief Reporter, and Dean William C. Warren, Associate Chief Reporter, reported on *and* presented the drafts submitted to the **Council** for discussion, **Preceding the discussion** of this material Mr. Miller, Mr. Darrell and the Reporters noted the cooperation of the Taxation **Section** of the American Bar Association In the preparation of the tax material and reported upon a meeting **with** Government officials, at the invitation of the latter, to discuss the usefulness of the **Institute's** work in any revision of federal tax **laws.**

THE RESTATEMENT CONTINUED

Professors Seavey, Scott and Reese were present **to** present for discussion the drafts of their material in **Agency, Trusts and Conflict** of Laws and also their suggestions as to how the work for the **project** to revise and keep current the **various** Restatements should **proceed.** The President explained the purpose of the **project**

and the reasons for starting with the **subjects** of Agency, Trusts and Conflict of Laws.

THE MODEL PENAL CODE

Professors Herbert Wechsler, Louis B. Schwartz and Paul W. Tappan presented for **discussion** Council Drafts **1-4** dealing with the Model Penal Code.

ANTI-TRUST AND PATENT PROJECTS

Professor Robert R. Bowie submitted his report on the work of the special **committee** to study the possibility of work by the Institute in the fields of **anti-trust** and patent laws, The **conclusion** of the **committee** was that a study of the anti-trust law was highly important but that it **could** not be handled **like** the **Restatement**. After **considering** the various possible forms **it** had been **decided** that the goal of the **project** should be a treatise on the **subject** which should not be the product of any individual, but of a group, and which would be passed upon by **Council**.

The following resolution was unanimously adopted:

Resolution No, 1757 On motion, duly seconded,

RESOLVED: Council approves the proposal to undertake a study of the anti-trust law as **outlined** In Professor **Bowie's** report to Council working out later the **exact** procedure of presenting it to the Annual Meeting, The President and Director are authorized to endeavor to secure the necessary funds,

The meeting **adjourned** at **12:45 P.M.** Saturday, March **14th**.

Herbert F. Goodrich