

The Philosophical Society of Texas

PROCEEDINGS

1953

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PROCEEDINGS
OF THE ANNUAL MEETING
AT DALLAS
DECEMBER 5, 1953

XVIII

DALLAS
THE PHILOSOPHICAL SOCIETY OF TEXAS
1954

THE PHILOSOPHICAL SOCIETY OF TEXAS *for the Collection and Diffusion of Knowledge* was founded December 5, 1837, in the Capitol of the Republic of Texas at Houston, by MIRABEAU B. LAMAR, ASHBEL SMITH, THOMAS J. RUSK, WILLIAM H. WHARTON, JOSEPH ROWE, ANGUS MCNEILL, GEORGE W. BONNELL, JOSEPH BAKER, PATRICK C. JACK, W. FAIRFAX GRAY, JOHN A. WHARTON, DAVID S. KAUFMAN, JAMES COLLINSWORTH, ANSON JONES, LITTLETON FOWLER, A. C. HORTON, J. W. BUNTON, EDWARD T. BRANCH, HENRY SMITH, HUGH MCLEOD, THOMAS JEFFERSON CHAMBERS, SAM HOUSTON, R. A. IRION, DAVID G. BURNET, and JOHN BIRDSALL.

The Society was reconstituted on December 5, 1936. Membership is by invitation. Active and Associate Members must have been born within, or must have resided within, the boundaries of the late Republic of Texas.

Offices and Library of the Society are in the Hall of State, Dallas 1, Texas.

The Philosophical Society of Texas

MEMBERS of the Society were dinner guests of President and Mrs. Dudley Kezer Woodward Jr. at the Dallas Woman's Club on December 5, 1953, when the Society commemorated the one hundred sixteenth anniversary of its founding. President Woodward presided and Judge William Hawley Atwell gave the invocation.

Attending were Mr. Sam Hanna Acheson, Miss Anne Prescott Toomey, Miss Winnie Allen, Mr. and Mrs. John P. Morgan, Colonel and Mrs. C. R. Tips, Judge J. E. Wheat, Mr. and Mrs. Jesse Andrews, Judge William Hawley Atwell, Dr. and Mrs. James Harvey Black, Mrs. Lois Crosland, Dr. and Mrs. Horace Bailey Carroll, Mr. and Mrs. R. T. Crowther, Dr. and Mrs. Claude Carr Cody Jr., Dr. and Mrs. Herbert Gambrell, Mr. and Mrs. Jerry Bywaters, Dr. Ela Hockaday, Dr. Louis Herman Hubbard, Dr. Louis Wiltz Kemp, Mr. and Mrs. Frank Haviland King, Mr. and Mrs. Stuart Malcolm McGregor, Dr. Rupert Norval Richardson, Dr. Charles Shirley Potts, Mr. John Elijah Rosser, Dr. Elmer Scott, Dr. Ruby K. Daniel, Dr. and Mrs. Ira Kendrick Stephens, Dean and Mrs. Robert Gerald Storey, Mr. and Mrs. Dudley Kezer Woodward Jr., Mr. and Mrs. Mark Lemmon, Mr. and Mrs. William Weber Johnson, Dean Willis Raymond Woolrich, Colonel Frank Wilson Wozencraft, Mr. Joseph Mehan, and Mr. Lewis Harris.

INTRODUCTORY REMARKS

Dudley Kezer Woodward, Jr.

My wife and I are honored to have you as our guests on this the one hundred sixteenth anniversary of the founding of the Society. Our attendance suffers somewhat because of competition at Austin where the newly completed legal

center is being dedicated and at South Bend where a major athletic massacre is even now probably in progress.

But those of us who are present are fortunate indeed. In this hour of continuing world tension we seek the counsel of someone qualified to speak with authority. Our speaker this evening, by natural endowment, training and experience, has acquired that capacity to a unique degree.

A lawyer of outstanding ability and wide experience, he has seen fit for almost a score of years to devote practically all of his time and talents to the service of his nation, his state, his profession and his community.

His labors have called him to the capitals of the western world throughout the war and in the troubled intervening years, and only recently he and his charming wife have completed a world tour affording them unsurpassed opportunities for appraisal of world conditions.

He has only recently completed his distinguished term as President of the American Bar Association, and now, with his myriad other responsibilities, has accepted Presidential appointment to the newly constituted Hoover Commission.

I have great pleasure in presenting our truly distinguished fellow-member and friend who will speak to us on "Freedom Under Law"—the Honorable Robert Gerald Storey.

Freedom Under Law

ROBERT GERALD STOREY

MR. Henry R. Luce, Editor of *Time*, *Life* and *Fortune*, in a recent speech—"Liberty Under Law"—before the Economic Club of New York emphasized that "the first and foremost aim of our Government must be to establish in the world the rule of law." He further observed: "Today the United States is the only political entity of global significance, able to defend itself, where law and custom, however threatened, are still coherently intact."

Webster's International Dictionary defines *Freedom* as "Quality or state of being free; liberty." *Liberty* is defined: "The state or fact of being a free person; freedom." Further explanatory notes in Webster's indicate "that freedom and liberty are often interchanged; freedom more frequently implies absence of restraint; liberty commonly suggests previous restraint, as freedom of the press, freedom of religion, etc."

Whether we designate our topic as *Freedom* or *Liberty Under Law*, we should consider the task of the United States to maintain and extend the rule of law.

Relation of Law and Power

Until the second decade of this century, most civilized nations were in agreement that the proper function of law was to regulate and control the use of power. Despite variations in the means by which regulation was accomplished and despite disagreement as to whether the ultimate source of control was natural or positive law, nations under Western civilization all proceeded on the assumption that arbitrary power must give way to the rule of law.

But in our time this fundamental proposition and basic goal of our civilization has been categorically denied, and there has arisen in the totalitarian nations of the world the opposing doctrine that supreme power is above the law. Under this approach law serves in the minor capacity as a mere aid by which the forces of power can bring about effective action. This denial of the place of law in society cannot be ignored. It is more than a mere differentiation of method, more than a mere difference of specific problem solutions, because it strikes at the very root of the whole Western democratic concept of freedom and order under law.

The nature of the challenge thrown forth becomes most evident in the field of international law. Underlying the international legal system, which has grown up beneath the shield of Christianity and democracy, there has been a foundation of broad social norms which were similar in all the civilized nations of the globe. The existence of these similarities has made possible intense international collaboration in many fields despite differing structures of national legal systems. But today when much of the world has renounced these social norms, when certain nations set out new global objectives which are completely divergent from our ideals of the past, it is inconceivable to us in the free world that such a slave world is being sponsored by leaders of the Iron Curtain countries. Dr. Charles Malik of The Lebanon has correctly stated: "There can be no greater disagreement than when someone wants to eliminate your existence altogether."

International Communism as it exists today is the mortal enemy of the free world. It has gained dangerous beachheads in the heart of the Americas, especially in British Guiana and Guatemala. Prompt action of Great Britain prevented a total loss of British Guiana. But the threat continues. Guatemala is partially paralyzed by an internal lawless conspiracy.

Unfortunately there is no one answer to the problem of how this menace can be solved. The problem is too vast for an easy, simple solution. But first we should understand the Soviet concept of law and freedom.

Political and Economic Power of Soviets

The Soviet Union is today a strange admixture of mediæval and modern thought. In science it is modern, or relatively modern. In law, at least in political legal doctrine, it is utterly mediæval. This is the strangest of paradoxes, for the promise of Marx was freedom for the oppressed and the end of their exploitation. Instead, the peoples of Russia are without individual freedoms and are cruelly exploited. The fatal error of Marx and Lenin was the doctrine of the dictatorship of the proletariat. The phrase in itself is an incongruity. Dictatorships properly belong in ages past. But ancient tyrannies at least had identifiable tyrants. Who are, or what is, the proletariat? Obviously all industrial workers cannot at once be dictators of any society. And so it has inevitably come to pass that the leaders of the Bolshevik revolution and of the Party which seized the power of the state, now exercise the dictatorial prerogatives. Communism as such perished before it was born. And in Russia, as in every land that follows the pattern, it led to simple tyranny.

The Russian Revolution of 1917, as it turned out, resulted only in a shift of absolute power from Tzar to Commissar, with this significant difference — that whereas the Tzar claimed only political authority, the Commissar has acquired economic domination as well. The Soviet tyranny is the most powerful in history. For the first time, *economic* as well as *political* power in a great nation has been brought into the hands of dictators. And, for this reason, it is the most difficult tyranny to rise against. For there is no residuum of power in economic groups from which a counter-revolution can easily arise.

This system of government is medieval. Actually it is primitive. Only in the most primitive tribes is to be found a common ownership of all means of production under the rule of a chieftain. In historical times the closest approximation to it was the feudalism of the dark ages. The power of the feudal lord was sustained by his ownership of land. Feudalism was undermined and broken by the rise of the merchants, the revolt of the serfs and, ultimately, by the industrial revolution itself, which created new forms of property more valuable than land. Until this century, it did not occur to dictators anywhere that they could successfully seize from the people both land and industry and reduce them to a peonage more absolute than under feudal lords or Tzars.

A primitive philosophy of government joined with a medieval concept of world empire and set in an ultra-modern age of atomic power, fairly describes the Soviet Union of 1953. Into the hands of its rulers have been placed the enormous forces which modern scientists have set free. These rulers will not accept the doctrine of the supremacy of law within the territories which they directly rule or in the world which they plan to conquer. How does this affect the rule of law in the Americas?

International Law and Organization in the Americas

In international law the Americas broke away from the old balance of power concept of Europe almost at the beginning of their history and began the formation of an international law of the Americas. Ever since discovery, the new world has shared common problems. In the beginning the American colonies faced similar issues during a period of exploration, conquest, and colonial competition among the European powers. Each nation independently or jointly was forced to wage wars of independence. Out of these difficult days the international law of the Americas was originated. Monroe proclaimed his famous doctrine to prevent aggres-

sion against the Western Hemisphere and to prevent any attempt from the outside to impose any non-American system of government on any American nation. A unilateral doctrine at first, it has, over the years, become a collective cornerstone of the Americas and their laws.

But more important still was the idea of an international organization for the American States, an entirely new idea of an attempt to apply new political and legal theories regarding the problem of peace and security through collective action based on juridical equality of all the American nations. In 1826, almost a century before the birth of the League of Nations, Simón Bolívar expressed the concept of an international American organization and took action to form it. The first Inter-American Congress met in Panama in that year, and the delegates of Latin American nations there signed a treaty of perpetual union, league and confederation. Bolívar lived too soon. The treaty was never ratified. But his dream persisted. In the year 1899 further concrete steps were taken, for eighteen of the American nations met in Washington and inaugurated the first large-scale gathering of nations of this hemisphere. Since that time there have been nine International Conferences of American States, many specialized conferences, and numerous meetings of consultation of the Ministers of Foreign Affairs.

Within the last decade the great charters of the Inter-American system have come into being. In 1947 the Inter-American Treaty of Reciprocal Assistance was signed at Rio de Janeiro providing for a formal collective security system for the Inter-American Community. The Rio Treaty constitutes a regional arrangement for the maintenance of peace and security, imposing an obligation upon each of the American nations to assist any other American nation in meeting an armed attack from within or without the hemisphere, and also to assist the American victim in case of any other act of aggression.

The other great document of the Americas was signed at Bogota in 1948. This Bogota Charter gave to the Inter-Amer-

ican system a treaty basis, and established its name as The Organization of American States. It enacts a constitution for the Americas, reorganizing its machinery and organs, giving structural unity to the whole. The Organization of American States is a democratic association of sovereign States based on voluntary cooperation, common understanding, and a shared international law.

The Inter-American system has proved exceedingly effective and has achieved far-reaching remedies for situations that in other portions of the world have led to war. This effectiveness does not lie solely in the machinery created by the Americas to settle their disputes. It may be laid in no small measure to the fact that the American nations have observed international law honestly and in good faith, and have given collective respect to action both when it favors their individual interests and when it runs against them.

That there have been conflicts cannot be denied, for no American nation has always been at peace with all of its neighbors. Nevertheless, the States of this hemisphere have realized that the supremacy of law is not based on an absence of conflict, for it presupposes clashes and differences. Law is based on the idea that such differences shall be settled by peaceful means. It can never end all injustices, but it demands redress through legal processes rather than through private retaliation. The glory of the rule of law in the Americas is that it has through peaceful legal methods ended conflicts, possibly not always to perfection, but less injustice has been done through legal settlement than would have ever been accomplished through the use of violence.

Constitutional Law in the Americas

Not only in the field of international law, but also in the field of constitutional law do the Americas have a common understanding. Despite differences in tongues and differences in private law institutions that the American nations inherited from the Old World, they have created a constitu-

tional law whose precepts are basically similar. The widest demonstration of constitutional democracy has taken place in the Western Hemisphere. It had its beginning when the North American Colonies adopted this form of republican government upon their independence, and its success was so great that when the Latin American nations succeeded in cutting their Old World ties, it was but natural to copy the constitutional regime of their northern neighbor. Canada was the major continental exception, for that nation remained attached to Great Britain. Nevertheless, by the British North America Act of 1867, the Dominion of Canada was brought into being under a constitutional system more nearly like that of the other American Republics than like the unwritten constitution of England. There have, of course, been many variations in details, but in general the constitutions of all the American nations resemble each other. Moreover, in interpreting the constitutions and deciding questions of constitutional law, the Latin American courts have repeatedly referred to the decisions of the United States Supreme Court and to the opinions of North American commentators on constitutional law.

However, the Republics of the New World have not been content to wait until constitutional changes have come about in the United States, once a needed change becomes obvious to keep pace with changing economic and social conditions of modern society. The Latin American nations have not hesitated to revise their constitutions and to make their own experiments independently.

Solidarity in the Americas is a reality engendered by their international and constitutional systems of law. In these fields there is a common thought from Canada's northernmost icy wastelands to the windswept pampas of the Argentine. And even though Canada has not formally become a member of the Organization of the American States, the Rio Treaty specifically includes Canada in the geographic zone of security. Certainly Canada has given ample evidence that she looks upon her relations with her sister hemispheric

nations sympathetically. And with her background of both civil and common law she facilitates an understanding between the Anglo-Saxon approach to international law and that of Latin America.

Constitutional law and international law are then the most important bonds between the American nations. They are the foundation of individual freedom. From this common basis the Americas stand as a unit against subversive tendencies which might endanger Western ideals and which seek to divide the New World. These fields of law have been a bond of sympathy in the past and are a source of strength for the future.

Freedom Under God and Law

A few weeks ago through the modern miracle of television we in America were privileged to observe that most ancient ritual—the crowning of a Queen for the United Kingdom, the British Commonwealth and its Empire across the seas. We saw the Queen enter Westminster Abbey, cross the gold-carpeted theatre past the Throne, and kneel at the faldstool for a moment of silent prayer. And then, we observed the ceremony itself—a medieval blending of legal purpose and religious effect.

There was a presentment of the Queen to her subjects, and their acknowledgement and acceptance. She promised to govern all her peoples according to their respective laws and customs; to cause law and justice, in mercy, to be executed in all her judgments; and, to the utmost of her power, to maintain the laws of God. She took the oath upon the Holy Bible and then, hearkening to that day at Runnymede, over seven hundred years before, when the knights and barons forced King John to affix his signature to the Magna Carta, so Elizabeth signed her name upon the parchment.

How remarkable this medieval ceremony, with its high ritual, and solemn mysteries, scarcely to be understood as they are brought to the light of this day out of the mist of

the past; and how significant that this supreme act of crowning a sovereign should invoke both the power of God and the laws of men!

As I observed the striking scene, I thought of Westminster Abbey, which had been consecrated even before the Norman invasion of England, and where today are entombed Britain's greatest — not least among them her "Unknown Warrior." And I thought, too, of Westminster Hall so close by, finished only a few years after the consecration of the Abbey, the oldest and the second largest law court in all the Western world, within whose timbered walls were conducted some of the greatest state trials in English history: Richard II, Sir Thomas More, Charles I, Warren Hastings, and Queen Caroline. And thus contemplating these two noble monuments of Westminster, I thought of spiritual and of temporal things, of churches and of courts, of divinity and of law. I recalled the statement of Erasmus that "He is really a King who aims at the Good of his People, and not his own; governing them by Law and Justice." And I remembered, too, the words of the immortal scholar, judge and cleric, Henry of Bracton, who declared in 1258, when Simon de Montfort was leading the barons against Henry III, that the King, as every man, is "under God and the Law."

It is well known that the law of God was accepted as the fundamental law in the Colonies. Our basic freedoms have been always supported by a deep spirituality. The "Body of Liberties," compiled in 1641 by Nathaniel Ward, was derived "from the Scriptures, Magna Carta, and the statutes and common law of England." And the 1648 abridgement of that work incorporated some fourteen provisions based upon the Old Testament of the Bible. It has been described as a first attempt at a comprehensive reduction into one form of a body of legislation of an English-speaking country.

Every state constitution beginning with Massachusetts in 1790, save one, has acknowledged God in the preamble of its constitution. The United States Supreme Court in the famous Holy Trinity Case held: "This is a religious nation."

Since the signing of the Declaration of Independence we have recognized certain endowed rights from our Creator and the language enunciating these great principles is well known to all citizens:

We hold these truths to be self-evident; that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness.

As a further guarantee of our basic freedoms, the First Amendment to the Constitution of the United States provides: "Congress shall make no law respecting establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for redress of grievances."

Basic Freedoms

Most citizens consider their basic freedoms as the "Four Freedoms—freedom of speech, worship, from want and from fear." The late President Roosevelt popularized such belief when they were incorporated in the famous Atlantic Charter during the war. As meritorious as the *Four Freedoms* are, they are not sufficient for the full enjoyment of liberty. An inmate in the penitentiary serving a life sentence has the four freedoms—he can say what he pleases, worship as he chooses, has ample food, and is secure from physical harm. If these four freedoms constituted all of the freedoms guaranteed under our laws and endowed by our Creator, one could acquire "Freedom" for the remainder of his life by committing a crime leading to a life sentence in the penitentiary.

What other freedoms and liberties should a free citizen possess? Fundamentally, he should be permitted (a) to possess such thoughts, ideas, and faith as his conscience may dictate; (b) to give expression to his thoughts and faith and have freedom of movement; and (c) economic freedom,

permitting him to produce, exchange, and use goods and services.

Confusion might arise regarding the three areas of liberty just mentioned. All three are involved, for example, when two workmen discuss religion while operating at the ends of a cross-cut saw. Of course, there is no limitation on a man's belief so long as it is not expressed. The hermit or convict can think as he chooses but the freedom of expression and implementation brings true freedom.

Thoreau, who attempted to withdraw from society in his pursuit of liberty, was caught and jailed for refusing to pay his taxes—a device with great powers over liberty.

Jan Masaryk, the Czechoslovakian patriot, was a stalwart defender of freedom, but under pressure he said: "Czechoslovakia must work out the synthesis between Russian socialism and Western liberty. . . . I'll go all the way with Russia—all the way up to one point. Socialistic economics—okay. But if anyone tries to take our freedom—freedom to think and say what we believe — the right to one's own thoughts and soul . . . is another question. . . ."

That was early in 1946. On March 10, 1948, Masaryk, after living for a time under the socialistic economics he had approved, plunged to his death from his office window in Prague. We shall never know what caused him to suicide, but it may well have been that he came to realize the emptiness of his hope—the hope that a person can live in liberty after he has given up economic liberty.

Democracy No Assurance of Freedom

Many citizens conscientiously believe that freedom is automatic under a democracy. While we proudly proclaim that our basic freedoms are the cornerstone of our democracy, it does not follow that freedom will survive because of the existence of our democracy. Freedom was earned by our forefathers through a great faith, defended in the public

forum and preserved on the battlefield. It is common knowledge that a democratic government may enslave its citizens. This fact is established most conclusively through kings, emperors, generalissimos and Fuhrers, who purported to head a democratic government. Edmund Burke observed that "people never give up their liberties except from delusion." Probably no greater threat to freedom exists today than the idea that a democracy guarantees freedom.

History proves this fact. Willis Ballinger's study of eight great democracies of the past — Ancient Athens, Rome, Venice, Florence, the First and Third Republics of France, Weimar Germany and Italy — reveals how unreliable is this hope. He reports that liberty perished by a vote of the people in five of the eight countries; that in two of them it was lost by violence; and in one of them a dictatorship was established by bribing members of the legislature through a fraudulent clique.

Secretary of State Dulles appropriately observed very recently: "It is impossible to make freedom so automatic that its retention does not need constant vigilance."

Law and Morality

While we have had, and continue to have, this large measure of success in improving the administration of justice within the United States, relatively little has been accomplished in bringing the rule of law to its proper place in the world. I need mention only the frantic making of atomic bombs and their fearful burial in leaden caskets in the ground. But we have witnessed, too, the despoliation of free peoples, the loss of freedoms, and the rise of tyrants.

Scientific discoveries in the mid-twentieth century are leading us to a culture as strange to our minds as the phonograph and flying machine are to the savage. But science must never become the master of man, nor law its servant. We must acquire a new concept of legal supremacy — not the supremacy of law to ruler, alone; but the *supremacy of law to force*.

It may be enough for each man to conform to an individualistic moral code. But societies must be regulated by codes of law. Morality is universal and adequate to each man's salvation. Law is national, and so far immature as to leave the societies of men without the guidance and the controls which alone can assure the blessings of liberty in a peaceful world. Professor Lindsay has written: "Modern statesmen have to act in two moral worlds, the largely anarchial world of primitive international morality, and the moral world of their own society, protected by a strong public moral opinion and rights whose maintenance is enforced by law."

Ordinary principles of morality can be made to apply among nations as well as among men. If the efforts of others to that end have failed in the past, this is but proof of the need for greater effort in the present. Civilization cannot wait much longer for morality enforced by law in the relations of nations. The hour of decision really is upon us.

May I suggest a few significant threats to our freedom:

1. *Internationally*: (a) Power and the weapons for catastrophic destruction in Iron Curtain countries are under the control of men without *moral* restraint. (b) The rule of law has been supplanted by will of men in lands containing one-third the peoples of the world.
2. *Nationally*: (a) The continuous efforts of traitors and disloyal men to obtain key positions. (b) The apathy of the average citizen towards his government. He should be as diligent in safeguarding his freedoms as using them.

Conclusion

Are we forever to live in two worlds, hostile and helpless, under a pall of fear? Let me say frankly that for the immediate future I see no alternative. But there is this ultimate hope. If modern thought is right, and medieval doctrine wrong, the *peoples* of the Soviet empire some day must displace the Godless ruling class, cast those beliefs aside, and find a better way of life. To this hope we can help in specific ways:

1. *Banish fear.* We do not fear the propaganda of the Soviets. They fear our truth. We do not seek to prevent contact between our people and theirs; they are the ones who impose such restrictions. We do not disturb their radio broadcasts; they try to jam ours. Theirs is a police state — ours a free state. The Western world is ideologically far stronger than the Soviet empire. Since they fear the truth so much perhaps the truth is, after all, the best weapon that we have. Sovietism is materialism and atheism. Enlightenment can dispel the darkness of the Soviet world.

2. *Champion the supremacy of law throughout the free world.* Where law is supreme, tyranny can never be. We must exert our influence to maintain the supremacy of law in all non-Soviet regions of the world. Only people who live by this principle are truly free, and we are consolidating the free world to stand against the slave world of Communism.

3. *Revive the philosophy based upon deep moral and spiritual principles.*

Standing on the threshold of this new era, I cannot be pessimistic. That we must meet the challenge of our time is a certainty. But we shall do so and, ultimately, we shall be triumphant.

Perhaps our Creator has given us the particular task to preserve our own freedoms and to export them to other lands. No greater challenge or opportunity can come to free men. We must not fail.

BUSINESS PERIOD

President Woodward: Those of us who have been privileged to hear him this evening will understand why the counsel of Robert Gerald Storey is prized wherever men of good intent seek justice and peace.

On November 4, new By-Laws for the Society were approved by a mail ballot. The vote was 57 aye, 3 nay. Too late to be counted were 10 additional aye votes.

Suggestions from several members lead the Directors to believe that further refinements within the authorized limits might be desirable. To that end, Messrs. Andrews and Baker have been requested and have agreed to serve for the ensuing year to consider these and other suggestions which may be made and to report to the next meeting of the Society.

I take this opportunity to extend on behalf of the Society our sincere thanks to Mr. Baker and Mr. Andrews for their work in revamping our By-Laws and to Mr. Andrews for the handsome Record Book he has provided for their safe-keeping.

I wish also to express my official as well as my personal thanks to Herbert and Virginia Gambrell, without whose devoted and charming assistance the Society could function with extreme difficulty, if at all.

In the absence of Judge Royall Richard Watkins, chairman of the Committee on Nominations, who is detained at home on account of illness, I will ask Mr. John Elijah Rosser, vice-chairman, to report for the Committee. [The report was adopted.]

We record with sorrow the death since our last meeting of two distinguished members of the Society—Herbert Eugene Bolton and Marvin Lee Graves. Both had long and illustrious careers at the University of Texas, and each attained highest distinction in his chosen profession. Professor J. Fred Rippy and Bishop A. Frank Smith have been appointed to prepare notices of them for *Proceedings*.

We also record the resignation of a longtime member, now resident in the District of Columbia. It is his feeling that while in his present position, he should not retain membership in the many organizations with which he, as a private citizen was associated. We bow to his judgment and give Dwight David Eisenhower a demit for the duration—which many of us hope will be a full eight years.

Unless there is further business to come before the meeting, the Society will stand adjourned until the first Saturday in December, 1954.

N E C R O L O G Y

HERBERT EUGENE BOLTON

1870-1953

DURING Herbert Eugene Bolton's eight-year residence in Texas, 1901 to 1909, he discovered the field of investigation and began the work that was to bring him hemispheric recognition and a permanent place among the historians of the Americas. Although the remainder of his life was spent in California, his affection for Texas and Texans continued to the last. Through his published writings, the scholars he trained to serve in Texan faculties, and his periodic visits to the state, he exerted such a continuous influence on its intellectual development that he was unanimously chosen a charter member of the revived Philosophical Society of Texas and was elected a vice-president.

The statistical data regarding him are deceptively brief. Born July 20, 1870, in Wilton, Wisconsin, he was graduated from the University of Wisconsin in 1895, returned for a year of graduate study, then moved to the University of Pennsylvania, where he received his doctorate in history in 1899. Just after the turn of the century he joined the faculty of the University of Texas and before he was appointed professor of American history at Stanford University (1909) he was recognized as one of the pioneer scholars in Hispanic American History. In 1911 he was called to the University of California where he became Sather professor of history and director of the Bancroft Library before his retirement in 1940. Lectureships and visiting professorships took him to such diverse institutions as Lowell Institute, the University of Santiago, Chile, the University of Mexico, and the National Library of Peru. He was Comendador de la Real Orden de Isabella Catolica, a member of leading historical, geographical and archaeological societies in the United States, Spain and the Hispanic American states, and president of the American Historical Association in 1932. Honorary degrees came to him from St. Mary's College, Catholic University of America, Marquette University and the universities of San Francisco, Toronto, New Mexico, Pennsylvania, Wisconsin and California. He was author or editor of twenty-five scholarly works and almost innumerable monographs and articles in journals. Twice he was honored by a *Festschrift* by his

former students, once on the occasion of his election to the presidency of the American Historical Association and again when he retired from active teaching.

Few men have had his tenacity of purpose, sustained industry, and skill in stimulating students and other scholars. Even fewer have had his retentive memory, insatiable scholarly curiosity and genuine capacity for warm and lasting friendships with people of all races, beliefs and capacities. By any standard, Herbert Eugene Bolton was a giant of a man; to those who knew him personally he was a rare and unique personality. The Philosophical Society of Texas records his passing with sorrow.

— J. F. R.; H. G.

MARVIN LEE GRAVES

1867-1953

MARVIN LEE GRAVES, an outstanding physician of Texas for more than sixty years, was born at Bosqueville March 26, 1867. In 1885 he was graduated B.A. from Southwestern University, received the M.A. the following year, proceeded to New York University where his M.D. degree was conferred in 1891, and later pursued graduate work at the University of Berlin and Cornell. Honorary degrees were awarded him by Southwestern (M.Sc.), Southern Methodist (LL.D.) and Baylor (D.M.Sc.) universities.

He began the practice of medicine in Waco in 1891. Seven years later he began a seven-year term as superintendent of the Southwestern State Hospital at San Antonio. From 1905 until he became an emeritus professor, in 1925, he was a member of the medical faculty of the University of Texas at Galveston. The last twenty-eight years of his life were spent in Houston where he practiced internal medicine and served as medical director and chairman of the board of directors of the American General Life Insurance Company.

The above data testifies to the wide reach and professional accomplishments of Doctor Graves' life, but this was only the framework upon which was built a magnificent temple, a life which dates and achievements can never portray.

Marvin Lee Graves was born in the home of a pioneer Methodist circuit rider, the eldest of a large family. To have the advantages of the newly-established Southwestern University at Georgetown, the Graves family established residence in that community, while the preacher father travelled his various circuits. The father died early, leaving six boys and three girls, all minors, to be reared by a very

remarkable mother. As the eldest, Marvin Lee early assumed paternal responsibilities. Every one of these children grew to maturity, received a college education, and achieved a place of distinction in life.

Doctor Graves was blessed with a remarkable personality, a winsome spirit that drew to him every person he met. He loved people and he loved God, and his patients insisted that his presence at the bedside wrought as great healing properties as his medical prescriptions.

Through the years Doctor Graves was sought as consultant by his old students and other physicians and surgeons in Texas and the Southwest. He was honored as have been few men of his generation, and by those who knew him best. His professional reputation was peerless, but after tribute had been paid to his skill and accomplishments in the field of medicine, always his associates would climax their eulogies, whether upon the platform in public function or in private, with personal testimony to the character and example of Doctor Graves in his public and private life. No person who ever knew him could lose the memory of the great soul whom he had been privileged to know.

Doctor Graves was one of the most cultured and civilized men of his generation. An omnivorous reader, he possessed a remarkable private library. In the classics, in history and the humanities he was at home, and the Bible was as familiar to him as to a theologian. He possessed an irenic spirit, and his only interest in any problem was to find a solution, rather than to complicate the problem through partisanship.

His wife of sixty years is as remarkable a person as was he. Together they formed a team that made their home the center of cultural, civic and religious interests wherever they lived. They were devout members of the Methodist Church, in which they both held positions of commanding leadership for a generation. Theirs was a Christian home, which engaged in daily family devotions.

A doctor son survives, who carries on in the highest fashion the traditions established by his father, Dr. Ghent Graves, and two lovely daughters, Mrs. Laura Lee Steele and Mrs. George F. Morse, together with several grandchildren. Two sisters and several brothers likewise survive, besides his beloved companion for sixty years.

A great American, an incomparable physician, a worthy, devoted and humble Christian was Marvin Lee Graves. The world is better because he lived, and Heaven is nearer because he is now there.

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