

# The Awful News (April 12, 1945)

*John Q. Barrett\**

Copyright © 2016 by John Q. Barrett.  
All rights reserved.

On Thursday, April 12, 1945, Charles Fahy, the Solicitor General of the United States, and Philip C. Jessup, a Columbia University law school professor serving as an adviser at the U.S. Department of State, traveled to the home of Charles Evans Hughes, the eighty-three year old retired Chief Justice of the U.S.<sup>1</sup>

Fahy and Jessup went to Hughes's house, 2223 R Street, N.W. in Washington, by appointment, which they had made at the request of Green Hackworth, the State Department's Legal Adviser. At the time, Hackworth was representing the U.S. on the International Committee of Jurists, which was drafting proposed revisions to the statute of the Permanent Court of International Justice, known informally as the World Court and located in The Hague. The Jurists Committee was preparing to present these proposals at the impending San Francisco Conference, for approval as part of the Charter of the United Nations. Fahy and Jessup were serving as close advisers to Hackworth as he prepared for San Francisco.

Hughes was not merely a former Associate Justice of the Supreme Court (1910-1916), a near president of the U.S. (he lost narrowly to President Wilson in the 1916 election), and the retired Chief Justice (1930-1941 were his years of active service). He also was a former U.S. Secretary of State (1921-1925) and a judge of the World Court (1929-1930). Chief Justice Hughes thus was, in all relevant respects, deeply experienced. He also was known to be, from his lifetime of work, a lawyerly, wise and essentially public-spirited person.<sup>2</sup> The U.S.

---

\* Professor of Law, St. John's University School of Law, New York City, and Elizabeth S. Lenna Fellow, Robert H. Jackson Center, Jamestown, New York ([www.roberthjackson.org](http://www.roberthjackson.org)). I emailed an earlier version of this essay to The Jackson List on April 12, 2016.

For an archive of selected Jackson List posts, many of which include document images, visit <http://thejacksonlist.com>.

To subscribe to The Jackson List, which does not display recipient identities or distribute their email addresses, send "subscribe" to [barrettj@stjohns.edu](mailto:barrettj@stjohns.edu).

<sup>1</sup> This account is based on an account that Fahy wrote seven years later. See Letter from Judge Charles Fahy to Professor Paul A. Freund, July 25, 1952, at 1 (unsigned carbon copy), in Charles Fahy Papers, Library of Congress, Manuscript Division, Washington, D.C., Box 6.

<sup>2</sup> See generally MERLO J. PUSEY, CHARLES EVANS HUGHES (2 vols., 1951).

government, through Hackworth, Fahy and Jessup, sought to draw on all of that greatness.

The men met in Hughes's study. They discussed numerous topics, including whether the U.N. Charter should provide for World Court judges to be chosen through nominations by national governments, or by the existing, ostensibly less political, method of election by entities within the international organization.

While the meeting was still in progress, Hughes's butler came to the study door. He reported that Thomas E. Waggaman, the Supreme Court's Marshal, had telephoned.

Waggaman's message for Hughes was that President Franklin D. Roosevelt—four times elected; three times sworn in by Chief Justice Hughes (his fellow former governor of New York State); twelve years in office; president throughout World War II, which soon would be won; less than three months into his fourth term in office; age sixty-three—had died.



March 4, 1933: President Roosevelt takes the constitutional oath of office, administered by Chief Justice Hughes.