

I believe to be obvious, that in all three cases—and any other attempts to intrude in disputes between states—the committee acted with no authority, and that its opinions in all three cases were entirely void. Individual members are of course free to say, as individuals, whatever they wish. But as a collective body, and as an organ of the OAS, the committee is without jurisdiction, and its opinions on such matters, as a collectivity, are entitled to no weight whatsoever.

When the Belize resolution was discussed in the OAS, there was general approval of my views on the jurisdiction of the committee, perhaps because territorial claims there involved not only Guatemala and the United Kingdom (not to speak of the inhabitants of Belize), but also Mexico. It is unfortunate that the Ministers of Foreign Affairs decided nonetheless to rely on an obviously invalid declaration re the Falkland Islands of the Inter-American Juridical Committee. It would be sad indeed if there were not better justifications for a call for the cessation of hostilities. And it exacerbates matters that no mention was made of the rights and interests of the inhabitants of the islands, despite the fact that the Belize resolution explicitly referred to such rights.

This action by the Ministers is particularly unfortunate because it inevitably calls into question the willingness of the OAS to adhere to its own Charter. The Juridical Committee is considered to be one of the principal organs of the OAS. But, as I stated in my 1979 opinion, its willingness “to take positions in specific and controverted cases, rather than confining itself to discussion of principles, jeopardizes the status of the Committee and inevitably gives rise to question as to its role in the Inter-American system.”

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### HARDY CROSS DILLARD (1902–1982)

Hardy Cross Dillard, a member of the Editorial Board of this *Journal* since 1955, died on May 12, 1982, in his eightieth year. He was an inspiring figure in our profession, a wise and beloved colleague and friend. His illustrious and varied career—as a law school teacher and dean, military officer, leader of the bar, scholar, and writer—culminated in his service as a Judge of the International Court of Justice in the years 1970–1979. On April 23, 1982, he was awarded the Manley O. Hudson Gold Medal by the American Society of International Law for his outstanding services to international law and for promoting international relations on the basis of law and justice.

Judge Dillard brought to his judicial role the wide learning and humanistic concerns that graced his writing and teaching. The individual opinions he wrote on the Court are evidence of his sensitivity to the fundamental dilemmas faced by international law generally. Perhaps more than any other judge in recent times, Judge Dillard looked beyond the field of international law for understanding of the issues presented to the Court. He drew upon his knowledge of contract and property law for felicitous analogy; he turned to moral philos-

\* These views are the personal views of the author.

ophy to reveal underlying assumptions; he reminded us of socio-historical forces and of the human drives that moved governments and institutions. Remarkably, he did this without pedantry and in a graceful, unpretentious manner.

We must turn to his lectures, addresses, and occasional essays to get the full flavor of Hardy Dillard's play of mind. His interest was largely in the imponderables of law and human aspirations, but there was nothing ponderous in his discourse. With wit and humor, he illustrated the abstract with anecdotes, stories, actual cases culled from a vast repertory. Poker games, sporting events, Southern folklore, lawyers' tales, wordplay figured prominently in his discourse. Interspersed were observations of Aristotle, Santayana, Whitehead, contemporary logicians and linguistic analysts. Only the dullest could fail to be stimulated.

Hardy Dillard's distinctive flavor—especially his “Dillard” stories—reflect his Southern background and education. He was born in New Orleans; his father was a professor of classical languages. Surely much of Hardy Dillard's fascination with language and humanistic ideas may be attributed to an early and continuing exposure to classical learning. His father was not an “ivory tower” classicist. He took an active part in efforts to overcome the handicaps imposed on the black population of the South, especially in regard to university education. (Dillard University in New Orleans is named for him, a tribute to his work for black education.) Hardy Dillard continued in that tradition, opposing segregation and advocating the complete removal of racial barriers in education and elsewhere. As a member of the Commission to Revise the Constitution of Virginia (in 1968) he had a gratifying opportunity to give effect to these views.

Hardy Dillard's education included (atypically for international lawyers) a BS degree of the Military Academy at West Point, a factor of some importance in his later career. West Point was followed by law studies in Charlottesville (LLB 1927), two years of practice in New York City, and then membership on the faculty of the University of Virginia Law School. He remained on that faculty for about 40 years (with time out in World War II) and served as its dean from 1963 to 1968. In World War II his West Point background, his teaching, and his international legal knowledge made him a natural choice to direct the training of military government officers. By the end of the war, he had the rank of colonel and several military awards including the Legion of Merit (Oak-Leaf Cluster). He rounded out his military career as Director of Studies at the National War College (1946–1947). Later he served as a legal adviser to the High Commissioner in Germany (1950) and as an adviser to the Air Force Academy (1966–1970).

He began his teaching of international law in 1929 and continued with it throughout his teaching career. He also taught other subjects: jurisprudence, contracts, constitutional law, and comparative law. His knowledge of these fields gave him insights into international law that probably would not have occurred to the more specialized international lawyer. His published writing on international law increased markedly in the 1950's,<sup>1</sup> often in connection

<sup>1</sup> A selected bibliography of his writings up to 1968 may be found in the *Virginia Journal of International Law* for April 1968.

with “distinguished lectureships” in various universities, here and abroad. The lectures given by him at the Hague Academy of International Law in 1957, under the title of *Some Aspects of Law and Diplomacy*,<sup>2</sup> gave him an opportunity to range broadly over the field. They are “vintage Dillard” and remain pertinent today. Elected to the Editorial Board of the *Journal* in 1955, he took an increasingly active role in *Journal* affairs and in the American Society of International Law. (He served as President of the Society in 1962–1963.) One of his principal interests in the Society was the inauguration of the ambitious program of studies placed under the aegis of an interdisciplinary Board of Review and Development. During the formative period of this program, Professor Dillard did much to ensure that a strong-minded group, divided over methodology and political stands, adjusted their differences so that a coherent plan of work would emerge. The aims of that program were close to his heart because they fitted well into his conception of international law. That conception was summed up by him not long ago in the following sentence: “[I]nternational law should be realistic, creative, and axiologically oriented; it should take account of social psychology, sociology, economics, and politics, and it should furnish a functional critique in terms of social ends rather than in terms of the norms themselves.”<sup>3</sup> He went on to add that the social ends served by law must not be “chimerical ends subjectively appraised, but realizable ends objectively assessed.”<sup>4</sup> He appreciated that this was an ideal and that subjective preferences could not be entirely eliminated in the creation or application of law. Yet he felt it important that a line be maintained between legal and political decisions, for otherwise the law becomes “subservient to whatever those in authority say is good.”<sup>5</sup> The problem of demarcation was one he often returned to, always conscious of the limits of law but convinced of its essential value in counteracting arbitrary and irrational political action.

A final word needs to be said about his contribution to this *Journal*. His articles and comments speak for themselves. But at least equally significant was his behind-the-scenes role, especially in evaluating and commenting on manuscripts submitted for publication. He welcomed that role; even when seriously ill he requested that manuscripts be sent to him. He read them with care and often did his own research so as to comment more effectively. His primary aim was to improve the quality of the submissions and he took pleasure, as well as pains, in performing that task. Many contributors, though they are not aware of it, owe him much, as do our readers. To Hardy Dillard, international lawyers were all part of a common collegial enterprise. He valued diverse views and he bestowed praise widely and generously. He will long be remembered for his encouragement, for his penetrating questions, and for the light he shed on the perplexities of our discipline.

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<sup>2</sup> 91 RECUEIL DES COURS 447 (1957 I), also published separately by A. W. Sijthoff (Leiden 1957).

<sup>3</sup> Book Review, 18 VA. J. INT'L L. 181, 190–91 (1977).

<sup>4</sup> *Id.* at 191.

<sup>5</sup> *Id.* at 189. See also Dillard, *The Policy-Oriented Approach to Law*, 40 VA. Q. REV. 627 (1964).