

SIXTH SESSION

Saturday, April 27, 1963, at 9:30 a.m.

BUSINESS SESSION

Pursuant to the notice of the meeting published in the January, 1963, issue of the *American Journal of International Law*, the business meeting of the American Society of International Law convened at 9:30 a.m. in the Federal Room of the Statler Hilton Hotel, Washington, D. C. Professor HARDY C. DILLARD, President of the Society, presided.

Judge EDWARD DUMBAULD, Secretary of the Society, read the list of members who had passed away during the year.

In Memoriam

WILLIAM EARL ARMSTRONG, Washington, D. C., member since 1930, died December 27, 1962.

CHARLES H. BEECHER, Philadelphia, Pa., member since 1956, died March 16, 1962.

RUTH M. BLEEZARDE, Washington, D. C., member since 1954, died November 24, 1962.

LAURA M. BERRIEN, Washington, D. C., life member since 1930, died August 14, 1962.

HON. MINTAUTS CHAKSTE, Sölna, Sweden, member since 1947, died September 16, 1962.

WILLIAM CULLEN DENNIS, Richmond, Indiana, member since 1907, life member since 1943, died September 14, 1962.

HON. MARIO TIBURCIO GOMES CARNEIRO, Rio de Janeiro, Brazil, member since 1949, died March 15, 1962.

EZEKIEL GORDON, New York, N. Y., member since 1959, died February 15, 1962.

A. LEE HARDT, Durham, North Carolina, student member since 1961, died 1962.

HON. HENRY F. HOLLAND, New York, N. Y., member since 1952, died July 18, 1962.

HON. SIR CECIL J. B. HURST, Sussex, England, member since 1907, honorary member since 1951, died March 27, 1963.

CHRISTEN JENSEN, Provo, Utah, member since 1909, died August 17, 1961.

RALPH M. KEARNEY, Canal Zone, member since 1956, died 1962.

HON. JAMES J. LENIHAN, Washington, D. C., member since 1943, died October 22, 1962.

JOHN D. MCCALL, Dallas, Texas, member since 1939, died 1962.

HON. IRVIN C. MOLLISON, New York, N. Y., member since 1955, died May 5, 1962.

- RUSSELL T. MOUNT, New York, N. Y., member since 1915, died June 1, 1962.
- JEANNETTE E. MUTHER, Washington, D. C., student member, 1944, annual member since 1946, died August 27, 1962.
- RUDOLF C. NEUENDORFFER, North Tarrytown, N. Y., member since 1950, died July 12, 1962.
- HON. FRED K. NIELSEN, Washington, D. C., member since 1914, died January 12, 1963.
- OTTO E. REIK, New York, N. Y., member since 1949, died March 20, 1963.
- HON. EMIL SANDSTRÖM, Stockholm, Sweden, member since 1959, died July 6, 1962.
- GEORGE E. SOKOLSKY, New York, N. Y., member since 1950, died December 12, 1962.
- DORIS STEVENS, Croton-on-Hudson, N. Y., life member since 1929, died March 23, 1963.
- HANS WEHBERG, Geneva, Switzerland, honorary member since 1957, died May 30, 1962.
- HON. WHITING WILLAUER, Nantucket, Massachusetts, member since 1959, died August 6, 1962.
- REID WILLIAMS, Denver, Colorado, member since 1950, died 1961.
- SAMUEL WILLISTON, Cambridge, Massachusetts, member since 1907, died February 18, 1963.
- J. M. YEPES, Bogotá, Colombia, member since 1945, died May 3, 1962.

The members rose and observed a moment of silence.

Mr. Justice STANLEY REED presented the following memorial to Sir Cecil J. B. Hurst:

SIR CECIL JAMES BARRINGTON HURST

Sir Cecil James Barrington Hurst was born on October 28, 1870, the son of Robert Henry Hurst, of Horsham Park, Sussex. After attending Westminster and Trinity College, Cambridge, he became a barrister-at-law of the Middle Temple in 1893, and a bencher in 1922. On December 21, 1901, he was married to Sibyl Gabriel Lumley Smith, daughter of Sir Lumley Smith, a Judge of the City of London Court and of the Central Criminal Court. He was a member of the Society from 1907, being made an honorary member in 1951. On March 27, 1963, he died at the ripe age of 92. Since 1925 he had been a member of the *Institut de Droit International*. From 1918 to 1929 he was Legal Adviser to the Foreign Office. In 1929 he became a Judge of the Permanent Court of International Justice, and was President of that tribunal from 1934 to 1936.

Tall, slim, handsome and affable in manner, Sir Cecil served with distinction as an international judge.

Sir Cecil was one of the founders and editors of the *British Year Book of International Law*. Among his publications were "The Effect of War

on Treaties" (1921); "State Succession in Matters of Tort" (1924); and "Nationality of Claims" (1926).

He represented his country in many international conferences, including the Second Hague Peace Conference of 1907, the London Naval Conference of 1908–1909, and the Paris Peace Conference of 1919. There he was co-author with David Hunter Miller of the Hurst-Miller draft of the League of Nations presented by President Wilson on February 3, 1919, to the League of Nations Commission of the Peace Conference. Later he attended many League of Nations Assembly sessions, and the Locarno Conference of 1925. In 1929 he was a member of the Commission of Jurists appointed to revise the Court statute and consider questions of accession by the United States. Sir Cecil appeared as counsel before the Court in a number of cases.

On September 19, 1929, after the death of Lord Finlay, Sir Cecil was elected to the Court, and re-elected to a full term on September 25, 1930. On December 2, 1933, he was chosen as President of the Court for the period 1934–1936. On November 25, 1936, on the eve of his retirement as President he was named Vice President. He continued to serve in that capacity during the wartime period until the old Court was replaced by its present successor tribunal. In that connection he attended a conference in San Francisco, October 26–31, 1945, regarding transition measures for the commencement of the new Court.

Mr. JOHN G. LAYLIN presented the following memorial to Professor Samuel Williston:

SAMUEL WILLISTON

On February 18th the Society lost one of its few surviving charter members. Samuel Williston in his 101st year reached the end of his earthly journey. His physical life began and ended in Cambridge, Massachusetts but his mental and spiritual life which drew from a distinguished line of missionaries and teachers, traveled to the farthest ends of our world. His contributions are living in the generations whom he taught and they will continue long after we are gone. They will live on in his monumental textbooks, his drafts of uniform statutes, long since enacted into law, in his report on the law of contracts for the American Law Institute, and in the judicial decisions that cite and accept his conclusions.

In a grove of great legal scholars, past and present, Samuel Williston is one of the Sequoias. The authority he attained flowed from his deep-rooted scholarship, his intellectual clarity, his human understanding and humility and above all, his absolute integrity.

Samuel Williston was always putting his shoulder to the wheel of orderly development of the law. He had faith that his conclusions would win acceptance on their merits. The bar and the courts have justified that faith. Rarely is a contract or sales point stated in brief or judicial opinion without citing Williston.

Plagued with recurrent ill health, he persevered and reached his goal.

We have an insight to his hidden springs in his own citation of the exhortation of Seneca's pilot who called out in a storm:

"Oh Neptune, you may save me if you will;
you may sink me if you will, but whatever
happens I shall keep my rudder true."

President DILLARD read the following extracts from a letter sent by him to the daughter of Samuel Williston:

Writing in a dual capacity I am moved to add a few words to the many you have no doubt already received. Throughout the world of law and scholarship it is of course recognized that in the passing of your father the nation and world have lost not only one of its greatest scholars but one of its rarest spirits whose qualities of mind and character were a quiet inspiration to many generations of students and colleagues. Certainly few men of our time have been held in greater respect, affection and, I would add, love.

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Please do not bother to acknowledge this letter. I merely wanted you to know that the members of the American Society of International Law share with you a sense of loss tempered by the realization that a rare scholar and rarer spirit had fulfilled a great promise.

The following memorial to William Cullen Dennis, prepared by Eleanor H. Finch, was read:

WILLIAM CULLEN DENNIS, 1878-1962

William Cullen Dennis was one of those rare men whose qualities of mind and character encompassed a combination of humanity, moral integrity, scholarship and legal ability of the highest order. He was the man of integrity, described by Horace, whose image is rarely seen today. He was an educator—having been professor of law in his early years at the universities of Illinois, Stanford, Columbia and George Washington, and later teacher of international law at American University in Washington, D. C., and at Earlham College in Richmond, Indiana. Mr. Dennis was President of Earlham College from 1929 to 1946, when he retired as President Emeritus. He had, during his tenure there, established an Institute of Polity which met yearly to hear authoritative speakers on subjects of international relations.

As a man of peace, Mr. Dennis was a firm advocate of settlement of international disputes by arbitration. At one time he was Secretary of the Lake Mohonk Conference on International Arbitration, which was held annually during the early part of this century for the purpose of promoting international peace through arbitration. Mr. Dennis was Assistant Solicitor of the Department of State from 1906 to 1910, and in the years from 1910 to 1929 he represented his government in some of the most important arbitrations to which the United States has been a party.

Among these were the *Orinoco Steamship* case before the Permanent Court of Arbitration in The Hague, the *Chamizal Arbitration* before the International Boundary Commission, and the *Norwegian Ship Claims* at The Hague before a special arbitral tribunal. Mr. Dennis was Secretary to Chief Justice White, who was sole arbitrator of the Costa Rica-Panama Boundary Arbitration, 1911–1914. He was also Counsel for the United States on the British-American Claims Commission, 1923, and General Legal Adviser to the U. S. members of the Plebiscitary and Boundary Commissions in the Tacna-Arica Arbitration, 1925–1926. Mr. Dennis also practiced law privately in Washington, D. C., and Richmond, Indiana.

As an original member of this Society, William Cullen Dennis was active in its work for a number of years before he assumed the presidency of Earlham College. He was Corresponding Secretary of the Society from 1924 to 1930, a member of the Executive Council at various times from 1921 to 1933, Vice President of the Society from 1938 to 1946, and Honorary Vice President from 1946 to the time of his death. He was also an active member of the Board of Editors of the *Journal* from 1924 to 1930 and an honorary editor after 1946. He contributed numerous articles to the *Journal* on arbitration. He always had a deep interest in the Society and often participated in its annual meetings. His remarks always bore the imprint of his broad knowledge and experience as well as of his constant attachment to truth and justice. He was an inspiring example of a man dedicated to this Society's purposes.

A memorial to the Honorable Fred K. Nielsen, prepared by Mr. Raymond T. Yingling, Assistant Legal Adviser, Department of State, was next presented:

FRED K. NIELSEN

Since our last meeting one of the distinguished international lawyers of his time has passed on.

Fred K. Nielsen was born in Denmark on April 22, 1879. He came to the United States in 1890 and was educated at Nebraska and Georgetown Universities in Arts and Law. He was Solicitor (chief law officer) of the Department of State from June 21, 1920, to August 18, 1922. He had wide experience in the field of international claims and international arbitrations both as counsel, United States Agent, and judge—and is recognized as an authority in those fields as well as on the law of treaties. He was a member of this Society for many years and was a former member of its Executive Council. Indicative of his versatility, and perhaps unknown to many of the associates of his later years, he was a star football player in college and a successful football coach at Georgetown University. A man of absolute integrity and great professional competence he contributed much during a long life to the study and practice of international law as lawyer, diplomat, author and teacher. His influence will not soon disappear.

Professor HERBERT W. BRIGGS presented the following memorial to Dr. Hans Wehberg:

HANS WEHBERG, 1885-1962

A life devoted to the furtherance of international law, peace and justice ended in Geneva on May 30, 1962, with the death of Hans Wehberg, Honorary Member of the American Society of International Law. Born in Düsseldorf, Germany, Wehberg spent most of his working life in Geneva where he taught at the *Institut Universitaire de Hautes Études Internationales* with that great galaxy of teachers which included Paul Mantoux, William Rappard, Eugène Borel, Georges Scelle, Hans Kelsen, Maurice Bourquin and Paul Guggenheim. Wehberg was the author of more than one hundred publications on international law, but was not content to regard that law as an academic study. A valiant fighter for peace, he edited *Friedens-Warte* for many years and collaborated with Walter Schücking on the standard treatise on the League of Nations Covenant, *Die Sätzung des Völkerbundes*, which ran into three editions. Elected to the *Institut de Droit International* at the remarkably young age of thirty-five, Wehberg became its honored and skillful Secretary General in 1950 and devoted his full interests to that organization and to the purposes for which both the *Institut* and the American Society of International Law exist. We pay tribute to the passing of a humane man whose works and whose influence survive him.

Mr. DENYS P. MYERS presented a list of members of the Society who had been members for fifty years or more, which list was received and ordered placed in the record as follows:

MEMBERS WHO ATTAINED FIFTY YEARS' STANDING OR MORE

Ricardo J. Alfaro, member Feb. 17, 1913	Richard W. Flournoy, member May 2, 1907; died Dec. 6, 1961
Arthur Bassett, member Nov. 14, 1908	E. Allen Frost, member July 29, 1907, <i>Emeritus</i> ; died May 17, 1963
Philip Marshall Brown, member Aug. 6, 1906	Harry F. Guggenheim, member May 9, 1911
W. Clayton Carpenter, member Feb. 10, 1907	Norman Dwight Harris, member March 7, 1907; died Sept. 4, 1958
Grenville Clark, member July 22, 1907	Max Huber, member June 25, 1908, honorary, April 30, 1927; died Jan. 1, 1960
J. Reuben Clark, Jr., member Feb. 4, 1907; died Oct. 6, 1961	Sir Cecil J. B. Hurst, member Dec. 5, 1907, honorary, April 28, 1951; died March 27, 1963
Samuel B. Crandall, member April 17, 1907; died Aug. 29, 1960	Christen Jensen, member Nov. 14, 1909; died Aug. 17, 1961
Beverly C. Daly, member Nov. 30, 1912	Kenkichi Kodera, life member July 29, 1908; died April, 1960
William Cullen Dennis, member 1907; died Sept. 14, 1962	