The Statute of the International Court of Justice

A Commentary

Third Edition

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OXFORD
UNIVERSITY PRESS

2019

Article 11

If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.

Si, après la première séance d'élection, il reste encore des sièges à pourvoir, il est procédé, de la même manière, à une seconde et, s'il est nécessaire, à une troisième.

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Cf. the Select Bibliographies on Articles 9 and 10, *supra*, pp. 356–7 and 386.

A. Historical Development

1 This article is identical to Article 11 of the PCIJ Statute.[1] In accordance with its decision to maintain the system of dual elections of judges by the Assembly and the Council,[2] the San Francisco Conference did not adopt a Venezuelan proposal[3] to delete the article.

B. Meaning of the Word 'meeting'

2 During the first election of members of the Court on 6 February 1946, a difference of opinion arose as to the meaning of the word 'meeting' in Articles 11 and 12.[4] The President of the General Assembly was of the opinion that at one meeting only one ballot can take place, so that the term 'meeting' was equivalent to 'ballot', whereas the representative of El Salvador, Mr Guerrero, a former President of the PCIJ, held that 'meeting' should be interpreted to mean 'one day' and not just one ballot. As Professor Kelsen noted, the interpretation advocated by the President of the Assembly hardly has a basis in the Statute which does not forbid taking more than one ballot during one meeting.[5] Also, the ordinary meaning of the word 'meeting' does not coincide with that of 'ballot'.[6] In 1920, the Advisory Committee of Jurists had especially replaced the word '*scrutin*' of the French draft with the expression '*séance d'élection*'.[7] But the General Assembly upheld the

[1] For a word-by-word comparison of the two texts, *cf.* UNCIO XIV, p. 801.
[2] *Cf.* Fassbender on Art. 10 MN 3.
[3] UNCIO XIV, p. 365.
[4] *Cf.* UNYB 1946–7, p. 62; and Lauterpacht, 'Revision', in Lauterpacht (2004), pp. 127 *et seq.*
[5] Kelsen, *Law of the UN*, p. 470.
[6] Lauterpacht, 'Revision', in Lauterpacht (2004), p. 129.
[7] *Cf.* von Stauffenberg, p. 45.