Reviews and Notices

Shawcross and Beaumont on Air Law. Second edition by CHRISTOPHER N. SHAWCROSS, K.M. BEAUMONT, C.B.E., D.S.O., M.A. (Oxon), and PATRICK R. E. BROWNE, O.B.E., T.D., M.A. (Cantab.), assisted by A. R. PATERSON, O.B.E., B.A., and R. STUART KINSEY. London: Butterworth & Co. (Publishers) Ltd. Toronto: Butterworth & Co. (Canada) Ltd. 1951. Pp. cviii, 1238, 139. ($31.50 delivered)

Late in 1944 machinery for increased international co-operation in civil aviation was established at the Chicago Conference on International Civil Aviation. In a short time the work accomplished at Chicago was to result in the replacing of the Paris Convention on International Aerial Navigation, which, drawn up in 1919, constituted the basis for the technical regulation of international civil aviation in the inter-war period. The first edition of *Shawcross and Beaumont* was based largely on the system of the Paris Convention and was therefore already obsolescent in great part on its publication early in 1945. Even so, it filled a long-felt need in aviation legal circles and was eagerly received. The authors meanwhile promised that a second edition would soon be forthcoming.

This optimistic approach to the early publication of a second edition rather underestimated the complexity of the problems to be settled in the post-war world of civil aviation. From 1939 to 1945 military operations had promoted international air transportation from a minor to a major component of the world's transportation system. The military pressure of a world at war had telescoped a quarter-century of normal peacetime development into a few years. Many economic, political, technical and legal problems remained to be settled before this powerful instrument of war could be converted into an effective instrument of peaceful intercourse among nations.

English aviation legislation, like other legislations based on the Paris system, has been particularly sensitive to the changes worked by the Chicago Conference. At the same time English legislation needed recasting in order to implement the policies of the Labour government. Sweeping changes in the statutory basis of English civil aviation have been made at frequent intervals since the war. The year 1945 witnessed the passage of the Ministry of Civil Aviation Act and the creation of the Ministry of Civil Aviation. Three public corporations, British Overseas Airways Corporation, British European Airways Corporation and British South American Airways Corporation were established under the Civil Aviation Act, 1946 (the last-named corporation was abolished in 1949). The Air Navigation Act, 1947, enabled the United Kingdom to ratify the Chicago Convention and to substitute its principles and the technical regulations set out in the annexes then under

development — ICAO has adopted fourteen to date — for the principles and technical regulations in the Paris Convention and its annexes. The Civil Aviation Act, 1949, and the Air Corporations Act, 1949, repealed much of the preceding legislation relating to civil aviation and re-enacted it in consolidated form. With such extensive developments under-way it is hardly surprising that publication of the second edition was delayed until the authors could anticipate a reasonable degree of stability.

The problem of arrangement is perhaps the most difficult of all the problems confronting a writer on air law, which touches so many other branches of the law that it is almost impossible to produce a simple and logical scheme. The authors make the point that "Air law" must be regarded as a convenient title for what might more accurately be called "the law relating to aviation in all its aspects". They are not alone in their use of the term, which has been adopted by the International Civil Aviation Organization in establishing a legal committee concerned with the development of conventions on "international *air law*".

The aim of the authors has been to produce a book which, whilst containing the texts of all British statute law and its derivatives, and of all international treaties, would also digest and explain them against the background of the common law as applied by the courts in England and elsewhere to cases arising from the use of civil aircraft, or what in the United States is called "air commerce". An attempt has been made to satisfy the practical needs of the lawyer, administrator and legislator, as well as of those engaged in the commercial employment of aircraft, rather than to produce a logically complete treatise that will always meet the criterion of academic criticism.

Even a cursory reading of the table of contents will show the broad scope of the second edition. The thirty-six chapters of the book are arranged in twelve parts, which deal with such matters as the nature, sources and scope of English air law, including its application in British Empire and Commonwealth territories; the administration of English law relating to aviation and air transport services; laws restricting and regulating the right to fly; laws governing the establishment and operation of air transport services; carriage by air — rights and liabilities in respect of passengers and cargo; surface damage, collisions and other instances of liability arising from the operation of aircraft; commercial dealings in aircraft, including charter, manufacture, aero-clubs; the law of master and servant applied to the use and operation of aircraft; airports, aerodromes and air navigation facilities; insurance of aircraft and aviation risks.

The eight appendices to the volume comprise the texts of international conventions; English statutes; English statutory orders and regulations; notes on English maritime enactments applied to aircraft; the International Air Traffic Association's (the pre-war IATA) General Conditions of Carriage; tables of parties to conventions and treaties; notes on English war emergency legislation; treaty arrangements between the British Empire and Commonwealth and the United States of America.

The book contains references to, though not the full texts of, the basic legislation on aviation matters found in the United States and Commonwealth countries. It is regrettable that the scope of the volume would not permit the inclusion of the texts, but, at least for United States legislation, which is even more detailed than the English, a handy source of reference

is available in the loose-leaf *Aviation Reporter* of Chicago. No comparable publication exists for Canadian aviation legislation, which is, however, less detailed than its English and United States counterparts.

In the discussion of the international law restricting and regulating the right to fly, there is a brief note on the theories concerning State rights in airspace. This is followed by an examination of the provisions of the Chicago Convention on International Civil Aviation that relate to freedom of flight over territories of contracting States; excepted classes of flight; limitations on flight imposed by contracting States under rights reserved by he Convention; obligations to be observed by contracting States, and conditions to be fulfilled by aircraft and their operators.

The law governing the rights as between nations to the use of airspace for the navigation of aircraft is now almost entirely treaty law. No multilateral agreement has yet been reached on the exchange of commercial rights in international air transport. The right of airlines to engage in scheduled operations on specific international routes still depends on bilateral agreements between States. By the middle of 1951 slightly over two hundred such agreements were in force and many were in various stages of negotiation.

The 1951 version of aviation is such a complex technical operation that one is inclined to listen with a sympathetic ear to the suggestion that it would be of great value to introduce "aeronautical assessors" to sit with judges trying aviation cases, on the analogy of nautical assessors in admiralty.

In the examination of the question of surface damage caused by aircraft, the authors first of all show the common law rules applicable. Then follows a careful examination of section 40 of the Civil Aviation Act, 1949, which provides for absolute liability in the case of surface damage caused by aircraft, subject to certain exceptions. There is no similar Canadian statutory rule on the point and the common law principles enunciated will be of particular interest in Canada because it is probably to them that the Canadian lawyer will have to go to find the answers to his questions about surface damage.

The Convention on the International Recognition of Rights in Aircraft, opened for signature at Geneva in 1948 and to date signed by twenty-seven States, is given some attention under the heading of the international law relating to ownership, hire, manufacture and other dealings. This Convention was not signed by Canada, although Canadian delegates participated in the discussions during which it was drawn up.

If those connected with the preparation of this book can be said to have a *forte*, it is aviation insurance. Yet, since the general principles of insurance law are applicable to this branch of insurance, they have commendably resisted the temptation to present a lengthy treatise on insurance under the pretence of dealing with aircraft and aviation insurance. The authors state that insurance against third party surface liability is to some extent compulsory in Canada, but no reference is given. The latest authority for the statement would be Air Transport Board General Order No. 3/51, dated May 24th, 1951. Under this order every carrier licensed by the Board to operate commercial air services is required to maintain security by insurance, bonds or otherwise, to the satisfaction of the Board, covering its risks of public liability and property damage. In the case of public liability the amounts specified are $20,000 a person, with a total of $40,000 an aircraft,

while the amount in the case of property damage is $5,000 an aircraft. On the international side the draft Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface, adopted by the ICAO Legal Committee in Mexico City in January 1951, does not provide for compulsory insurance, although the Rome Convention of 1933 on the same subject, which the new draft is intended to replace, does provide for compulsory insurance, for which a suitable guarantee may be substituted.

Possibly the most important and useful part of the book concerns the international and English law on carriage by air of passengers, goods and baggage. In particular, a careful reading of this part will give not only a clear understanding of the Warsaw Convention for the Unification of Certain Rules Relating to International Transportation by Air and the Carriage by Air Act, 1932, by which it was implemented in English law, but also of the Canadian application of the Convention through the Carriage by Air Act, 1939, as brought into force by order in council in 1947. In both the Canadian and English Acts it is provided that the Act may, by order in council, be applied to carriage that is not international. That step has not been taken in Canada, but the book expresses the understanding that, in the case of England, the appropriate order is intended and may shortly be made.

The Achilles' heel of the Convention is article 25, which provides that the carrier who, in normal circumstances, would enjoy a limitation of liability subject to compliance with certain conditions stated in the Convention, will lose the benefit of the limitation if it is established that he has been guilty of wilful misconduct. The expression "wilful misconduct" is merely an attempted translation of the expression "dol", which occurs in the original French text of the Convention. The authors examine this question from the point of view of English and United States authorities. They submit, with some hesitation, that an English court called on to construe the Carriage by Air Act, 1932, would be guided in considering the meaning of "wilful misconduct" by the interpretation previously placed by the courts on the expression when used in contracts and in other statutes, and would not look at the French text, nor consider the meaning of "dol" in the laws of other countries or in the minds of the framers of the Convention. They suggest that the position is different in the United States, since there the Convention is a "self-executing" treaty, and the French the only official text. Consequently the assistance of expert witnesses to expound what the French text means in the United States translation may be necessary. It is interesting to speculate what the position is in Canada where the Carriage by Air Act, 1939, and the Convention in a schedule to it, exist in *both* French and English. In these circumstances, would the Canadian courts take an approach to the problem different from the English and United States approaches discussed by the authors?

At the request of Canada among other countries, ICAO now has the revision of the Warsaw Convention under active consideration.

A popular misconception among those who approach air law for the first time is that it follows maritime rules wherever possible. This is not so. The tendency of the English courts has so far been to apply to air carriage the established principle relating to carriers by and and to prefer the analogy of carriers by land to that of carriers by sea. This is true even though in many respects carriage by air in fact resembles sea more closely than land carriage. So too, in considering the legal nature of aircraft, the courts have

been loathe to assimilate an aircraft to a "vessel", even when dealing with seaplanes. The work under review states that, although the legal status of an aircraft is yet to be defined, the general opinion is that an aircraft is *sui generis*.

The book will not spare the Canadian lawyer the necessity of doing his own research in Canadian sources to discover what law will ultimately govern the aviation problems that come his way; but it will go a long way towards indicating the trend his research should take, and, particularly in questions of international air law, it supplies definite answers for Canadian problems. That *Shawcross and Beaumont* is in good standing with Canadian courts is evident from the fact that the first edition has been referred to in two recent judgments: *James McWilliams and Keith McWilliams* v. *The Thunder Bay Flying Club*, [1950] U.S. Av. R. 485, [1950] O.W.N. 696 (Supreme Court of Ontario), and *Nova Mink, Ltd.* v. *Trans-Canada Airlines*, [1951] U.S. Av. R. 40, [1951] 2 D.L.R. 241 (Supreme Court of Nova Scotia).

GERALD F. FITZGERALD*

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Constitutional Law: An Outline of the Law and Practice of the Constitution, Including Central and Local Government and the Constitutional Relations of the British Commonwealth and Empire. By E. C. S. WADE, M.A., LL.D., and G. GODFREY PHILLIPS, C.B.E., M.A., LL.M. Fourth edition by E. C. S. WADE. London, New York and Toronto: Longmans, Green and Co. 1950. Pp. xxx, 535. (35s. net)

This treatise first appeared in 1931, under the joint authorship of Mr. E. C. S. Wade, now Downing Professor in the University of Cambridge, and Mr. G. G. Phillips. The present edition is the work of Professor Wade, as professional activities have prevented Mr. Phillips from assisting as co-author. Without in the least minimizing our appreciation of the original co-operation, we may say that the work benefits from the fact that the field is here surveyed through the mind of a single author. It is perhaps unnecessary to point out once more the general qualities. When the book first appeared it at once assumed a position of authority as an outstanding text. The clear and precise style, the sound judgment, the excellent and generally accurate scholarship, the functional approach to the subject, the wisdom drawn from practical experience, the fine critical sense which have characterized all the editions are once more fully evident; and we congratulate the learned Downing Professor in again making us his sincere debtors. Indeed, it may be said that with its publication, constitutional law underwent a real change from arid factual description to a position of extreme importance in legal education, and the place which it now holds in any modern law faculty owes not a little to this treatise. Professor Wade can be assured that this new edition is not only such as we should expect from him but will increase the importance of the subject as a necessary discipline in any scheme of realistic legal education.

* Gerald F. FitzGerald, M.A. (St. Joseph's), B.C.L. (U.N.B.), Ph. D. (Ottawa); formerly with the Dominion government in Ottawa and Montreal; since 1946 a member of the legal staff of the International Civil Aviation Organization, Montreal; member of the New Brunswick Bar.

The treatise preserves its original plan and it is unnecessary in a review to set this out since the book is now so well established as a work of distinct and recognized merit. There have indeed been many important developments since the last edition in 1946, whose implications are as yet not at all clear; but Professor Wade shows fine discrimination in his emphasis. Almost every page discloses the skill with which he has brought the book up to date, and the sense of values in the weighing of these changes which are of outstanding interest. In addition, within the original scheme, the sections on Administrative Law have been reconsidered (pp. 269-325) and they now form a wide and balanced view of that subject. An excellent new chapter on Cabinet Organization owes not a little to Professor Wade's practical experience. The chapter on colonial constitutional law has been greatly improved, and it leads us to hope that one day Professor Wade may find time in a comprehensive work to fill a real want in a field of law ever growing more important and one in which the old texts are practically useless. The sections on the Commonwealth States are reduced to succinct statements and are careful and judicial; and we agree with the learned author that their constitutional law in its details and complications is better left to writers who live under their various constitutions.

The work is singularly accurate and well informed. Here and there we have found small errors in the main text which can easily be corrected in a new edition; we only note that the references to the Canadian Senate and to membership of the Canadian House of Commons are none too accurate. Throughout, there are increasing references to legal periodicals and extra-legal literature; while an excellent table of statutes and an equally excellent table of cases (with Report references) and a good index all combine to facilitate reference to a text which is more than ever outstanding in learning and presentation.

We may conclude our welcome to this edition by pointing out Professor Wade's general view of developments, which should command respect in coming from such a learned and experienced lawyer. First of all, he sees in the events of the past five years continuity rather than change in fundamentals; secondly, amid all the countless activities in the service state and the continued growth of administrative law, he sees work done in the main expeditiously and well, with little if any extravagant tendencies to offend the canons of judicial propriety; and thirdly, political and personal liberty have more than remained the invaluable heritage of a people, who have resisted any pressures to tighten the law in a state to which we owe the greatest contributions in legal history to human freedom.

W. P. M. KENNEDY*

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The Trial of Oscar Slater. Edited by WILLIAM ROUGHEAD. Fourth edition. Notable British Trials Series. Edinburgh and London: William Hodge & Company Limited. 1950. Pp. lxiii, 338. (15s. net)

Though Oscar Slater was arrested as a result of a relentless investigation by the Glasgow City Police for the brutal murder of Marion Gilchrist, though

* M.A., LL.B., Litt.D., LL.D., F.R.S.C., Emeritus Dean of the Faculty of the School of Law University of Toronto.

Professor John Glaister propounded the prosecution's murder weapon theory, though the conviction handed down on the 6th of May, 1909, was unexpected, though Sir Arthur Conan Doyle, Sir Edward Marshall Hall and Sir Hubert Stephen led those who for nearly twenty years pressed for Slater's exoneration, though by special act new legislation was retroactively applied after the convict's release so that his appeal might be heard, though on July 20th, 1928, the Scottish Court of Criminal Appeal, after nearly two decades, quashed the conviction, and though the whole case provided a continuing sensationalism unique in British criminal law, one would think that by the half century interest in the matter would have been dissipated. The publication of a fourth edition of *The Trial of Oscar Slater* is the most obvious evidence of the abiding interest the case has stimulated.

The first edition, published in 1910, was dedicated by Roughead to the Honourable Lord Guthrie, who sat as judge at the trial. Its admirable introduction contains an objective, restrained, clear and vigorous chronicle of the case and an analysis of the evidence. Roughead justified its publication at that early date because "the conviction was obtained . . . upon evidence as to identity based on personal impressions, the corroboration . . . though containing elements of strong suspicion, adding nothing to the prisoner's guilt", and further "that the case itself . . . [contains] . . . elements sufficiently strange and suggestive to supply, in an unwonted degree, a legitimate and lasting interest". The introduction ends with a reserved submission as to the murder weapon theory. The Crown had alleged at the trial that the instrument used was a hammer found in Slater's luggage. Indeed the hammer-weapon theory was a vital element in its case. Roughead early in his researches interviewed Dr. John Adams, a neighbour of Miss Gilchrist, and the first medical doctor at the scene of the crime, a man who was studiously ignored by the Crown authorities. Dr. Adams had carefully examined the body, and noted that the legs of a nearby chair were so soaked with blood as to lead to the conclusion that it in fact was the instrument used. This evidence, unearthed by Roughead, was of the highest significance in the subsequent efforts to free Slater, and Roughead had the ultimate satisfaction of testifying about his interview with Dr. Adams before the Court of Appeal. The introduction, the evidence at trial as transcribed, the remarkable address to the jury by the Lord Advocate, the address to the jury of Mr. McLure, Slater's counsel, and Lord Guthrie's charge to the jury, together with five appendices, some sketches and photographs, completed the thorough compilation that makes up the first edition. An early reviewer, after careful study of the case set out, concluded: "We march from puzzle to puzzle and from perplexity we at no time escape. . . . One thing is clear; a legal case of the highest importance may be accepted as proved in face of discrepancies of testimony which would leave a ghost story without a chance of acceptance by scientific minds".

How different is the introduction to the fourth edition, this time dedicated to Sir Arthur Conan Doyle. The editor, after years of personal participation in the fight for Slater's freedom, has lost his objectivity. He has written an entirely new introduction and considers it "a task the like of which no future editor of any trial, however notable, will probably be called upon to essay". It is alive with severe criticism of the "uncommendable zeal" of the Glasgow authorities, of the "red-tape entanglements", of the Circumlocution Office, and even of Lord Guthrie, to whom the first edition was

"respectfully" dedicated, and who had instructed the jury that "A man of that kind [Slater] has not the presumption of innocence in his favour which is a form in the case of every man, but a reality in the case of the ordinary man".

He has little patience with the "persistent refusal of successive Scottish Secretaries to do anything to satisfy the request d demands for further investigation". But surely Roughead is to some ex ent at least unjust in this last criticism. Scottish Secretaries successively commuted Slater's sentence from death to life imprisonment in the teeth of a jury's verdict, ordered an investigation as early as 1914, had the case under almost continuous consideration, released Slater after eighteen years imprisonment, made his appeal possible and recommended compensation. One wonders what Roughead's comment might be had the efforts on Slater's behalf been met with that impassive immovability that characterized the conduct of the Massachusetts authorities in the case of Sacco and Vanzetti, similarly convicted "upon evidence as to identity based upon personal impression, the corroboration . . . adding nothing conclusive".

The editor cannot contain his disappointment that the Court of Appeal vitiated the judgment only on the legalistic ground of misdirection by the trial judge, dismissing the arguments as to the unreasonable nature of the jury's verdict, the significance of newly discovered evidence and the prejudice suffered by non-disclosure of evidence known to the Crown.

The new edition further contains in appendices all proceedings, subsequent to 1910, including the evidence heard by leave of the Court of Appeal and the unanimous judgment of the Court of Appeal. Omitted are only the extradition proceedings at New York held in 1909. These form such an essential part of the case that their absence is regrettably conspicuous. It was in New York that Helen Lambie identified Slater in most unsatisfactory circumstances. It is to be hoped that a future edition will include them.

It has been said many times that the Notable Trials Series serves a most valuable function. The collection and publication of the record of famous trials and often memorable addresses and charges, together with the studied, often provocative, always stimulating observations on them, form a valuable part of British legal literature. A Canadian series of the same kind would be of no less value. It is too bad that nowhere in ready and readable form are preserved our leading criminal case records, jury addresses and charges. Roughead's work, however, is more than the usual excellent compilation of record and event. His first edition became the reference work for those who strove to correct a manifest injustice. The present edition is a studied and unencumbered assessment of the whole case, so far as the facts are known.

It must be noted that Slater has never been proved innocent. There are still mysteries about the case on both sides, of which no explanation seems now possible. Perhaps, as Roughead suggests, the servant girl Helen Lambie, who saw the murderer, and who is still alive in Illinois at last report, holds the key. It seems too much to wish that the learned editor may finally edit a definitive volume with the final answers known and the mysteries solved. He seems to despair of it: "We must await with patience", he says, "the verdict of the Great Assize".

SYDNEY PAIKIN*

*Sydney Paikin, B.A.Sc., P. Eng. (Toronto), of White & Paikin, Barristers and Solicitors, Hamilton, Ontario.

The Law of the United Nations. By HANS KELSEN. Published under the auspices of the London Institute of World Affairs. London: Stevens & Sons Limited. Toronto: The Carswell Company Limited. 1950. Pp. xvii, 903. ($26.75)

Kelsen's book on the law of the United Nations will not make converts to the pure theory of law. It may even make a few heretics. And there are others who will say that it proves only one thing, the failure of the theory when confronted with concrete, practical problems. I happen to be one of those who was converted some time ago; and it will take more than one bad book to shake my faith. I am also one of those who have thought and said that Kelsen is the greatest living legal scientist, perhaps the greatest in the history of legal philosophy. I will continue to think so in spite of this book.

The book is difficult to read, even by the specialist. Compare the style of his *General Theory of Law and the State,* which was written in his native German and translated into readable English. But it is not only a matter of language and style. The difficulty results mainly from the excessively close analysis of the wording of the Charter. Kelsen's purpose in many cases seems merely to criticize the bad draftsmanship of the Charter.

True to his method, Kelsen applies the criteria and techniques of a perfect legal order to one that is admittedly imperfect. One need only refer to his repeated insistence that there can only be an obligation if "a sanction is attached to contrary behaviour". Hence some of the conclusions that have so shocked United Nations lawyers. This method also deprives the work of any of the dynamic and imaginative vision which has been so important in the development of national constitutions. One wonders, for example, what would have happened to the Constitution of the United States had Hans Kelsen rather than John Marshall been its principal interpreter. Kelsen's lack of vision probably reaches its lowest point in the part of his book devoted to human rights.

This book is the work of a pure intellectual. There is, for example, practically no mention of practice or jurisprudence. What reference there is to United Nations practice will be found mainly in the footnotes, which were obviously added after Kelsen had made up his mind. I suspect that he wrote most of the book in the months immediately following the adoption of the Charter. It was already out of date before it was published.

JOHN P. HUMPHREY*

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International Law. The Collected Papers of SIR CECIL J. B. HURST, G.C.M.G., K.C.B., K.C. London: Stevens and Sons Limited. 1950. Pp. ix, 302. (30s. net)

If the paramount source of international law is to be found in the practice of States in their relations with one another rather than in the vague and disputable rules of the so-called law of nature, then it would be difficult to find any person more qualified than Sir Cecil Hurst to write a book on the subject. Unfortunately, in a lifetime crowded with notable achievements in international affairs, there has obviously not been time to write a treatise

* Of New York. Formerly Professor of Law, McGill University.

dealing with the whole body of international law. The present volume is a collection of addresses, lectures, papers and articles given or written between 1921 and 1948 and now published at the instigation of friends who considered it an appropriate method of marking the eightieth birthday of the author.

Sir Cecil Hurst has devoted more than fifty years of an active life to the practice and study of international law. After graduating from Cambridge with a first class in law and serving for a time in the chambers of Sir Robert Finlay, later a judge of the Permanent Court of International Justice, he was, in 1902, appointed Assistant Legal Adviser to the Foreign Office, and later became Legal Adviser. During twenty-seven continuous years of service in the Foreign Office he took part in the Second Peace Conference at The Hague in 1907, in drafting the Peace Treaties in 1919, in the early formative meetings of the Assembly of the League of Nations and in the negotiations leading up to the Treaty of Locarno. By 1929 he had succeeded his former leader, Lord Finlay, as a judge on the Permanent Court of International Justice, on which he served until the resignation of the judges—a preparatory step in the process of dissolving the court and establishing its successor, the International Court of Justice. During the Second World War he became the first President of the United Nations War Crimes Commission. In addition to these official duties, he founded and for many years was editor of the British Year Book of International Law, and from 1940 to 1948 was President of the Grotius Society.

The present book is not an integrated whole. Each address or article is independent of the others. All, however, bear the marks of the author's profound learning and his long experience in the administration of law.

The viewpoint throughout is of one who is concerned with a workable rather than an ideal system of rules for international relations. This approach is exemplified in his Presidential Address to the Grotius Society in 1944 on "The Nature of International Law and the Reason Why it is Binding on States". International law is described as "the aggregate of the rules which determine the rights which one State is entitled to claim on behalf of itself or its nationals against another State". It is binding on States not because they consent to it, but because the conception of a State is itself the creation of international law. Subjection to international law is of the essence of statehood, a necessary consequence of being a State. One of the functions a State is bound to fulfil is that of caring for and protecting the interests and well-being of its people, which on appropriate occasions involves putting forward claims on their behalf. It cannot reasonably put forward any claim based on principles that it will not admit to be binding on itself.

The same approach appears in "A Plea for the Codification of International Law on New Lines". Codification, Sir Cecil Hurst believes, will not be accomplished by calling international conferences in an attempt to state the rules of law as they ought to be or as some people think they ought to be. There is little hope that any worthwhile measure of agreement can be reached in this way, and indeed one notable attempt has already failed. Delegates inevitably push the rules that would be appropriate to the present-day requirements of their respective governments —requirements so diversified, so contrary, that agreement is impossible. International law does not alter in accordance with the aspirations of the inhabitants of any particular country. Its most important source is the practice of States. Always its development must be the subject of patient and continued research and ef-

fort on the part of international lawyers. The author therefore recommends that in every country a small body of men devoted to the study and advancement of international law should take in hand a portion of the work of codification under a plan drawn up by a central co-ordinating organization. The contributions of each national group would form the basis for the subsequent work of the international organization, from which, after constant interchange of views, might emerge a formulation of rules and principles that by its intrinsic merit would commend itself to the world at large for acceptance as the law of nations.

Evaluation of a book of this sort is never easy; indeed, even to describe its contents in the short space of a review is difficult. In a provocative article entitled "The Continental Shelf" are discussed some of the problems which may arise from the claims made by certain States, including the United States, Mexico, Argentine, Chile and Peru, to the resources under the continental shelf. Other questions dealt with include: The Effect of War on Treaties; State Succession in Matters of Tort; Wanted an International Court of Piepowder, that is, a court in which claims of an international character may be settled more quickly than by present methods, which work great hardship on individuals who have suffered from some act of a foreign State. In a chapter entitled "Nationality of Claims" a great number of cases are carefully examined and six propositions deduced to support the rule that a State cannot maintain against another State a claim on behalf of an individual, unless the title to the claim remains continuously in the hands of citizens of the claiming State from the date of the injury to the time of presentation of the claim. Nor can a State collect any portion of a claim that will be returned to nationals of the State from which payment is sought. Perhaps it will be enough to recommend this collection of the papers of a distinguished international lawyer to readers, and say no more.

G. P. R. TALLIN*

Fiat Justitia Ruat Coelum

"I go often [to the Old Bailey] when I'm in London. It's a good place to learn about human nature. There's a difference in feeling between that and a French court that made a most peculiar impression on me. I don't pretend to understand it. At the Old Bailey you feel that a prisoner is confronted with the majesty of the law. It's something impersonal that he has to deal with, Justice in the abstract. An idea, in fact. It's awful in the literal sense of the word. But in that French court, during the two days I spent there, I was beset by a very different feeling, I didn't get the impression that it was permeated by a grandiose abstraction, I felt that the apparatus of law was an arrangement by which a bourgeois society protected its safety, its property, its privileges from the evil-doer who threatened them. I don't mean the trial wasn't fair or the verdict unjustified, what I mean is that you got the sensation of a society that was outraged because it feared, rather than of a principle that must be upheld. The prisoner was up against men who wanted to safeguard themselves rather than, as with us, up against an idea that must prevail though the heavens fall. It was terrifying rather than awful. (W. Somerset Maugham: Christmas Holiday)

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* G. P. R. Tallin, K.C., B.A. (Oxon), LL.B Dean, Manitoba Law School.