

early 1870's was also fairly lawless, judging from W. F. Butler's Report in 1870 to the Hon. Adams Archibald.

(iv) Illicit liquor traffic throughout the West, and particularly the outposts of this illegal traffic such as Fort Whoop-up, were a constant problem: See for example a letter of the Rev. G. A. McDougall of Edmonton, in 1874, to the Hon. D. A. Smith (Manitoba Archives).

(v) The Cypress Hills Massacre of 1873 was similar to the illicit liquor traffic in that it involved primarily Americans; however, the fact remained that it took place on Canadian soil largely due to the ungoverned situation which prevailed.

What is my point? It is simply that, rather than perpetrating myths, in the interest of instilling Canadians with a strong sense of their own worthy identity as distinct from that of the violent Americans, we ought to face up to the fact that our past has known some periods and incidents of violence and injustice. The stupidity of vulnerable myths is that once they are punctured, a credibility gap may develop, and thus from this point of view it should be obvious that the dissemination of a misleading or abridged version of our history, that ignores some of the conditions and incidents which we might wish to forget, is shortsighted.

In concluding this review, I leave you with one question and one summary remark. I wonder who was the "son of one of Calgary's most prominent lawyers",¹⁵ with whom Pearl Miller established a liaison, who is incongruously left unnamed? And finally, while this book is not a gem, such as for example Pierre Burton's book *Klondike*, which I could recommend without any reservation, I feel that I can recommend this book to devotees of Western Canadian history.

CAMERON HARVEY*

THE PRICE OF INTERNATIONAL JUSTICE

By Philip C. Jessup; (Columbia University Press), 1971; viii, 82 pp.

In embarking upon a review of the printed record of a series of specially-commissioned lectures, the reviewer immediately meets a literary dilemma. Does he treat his subject matter primarily as a printed text, or rather as a set of lectures? Upon his resolution of this problem, much will turn. In choosing the first course, the reviewer risks committing injustice to the author; credit due for the orator's art—an inflection, a

15. P. 153.

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pregnant pause or a rapid-fire delivery of a telling passage—may be omitted in favour of an “objective” textual criticism for the benefit of a prospective reader. Yet in choosing the second course (that of judging the text primarily as a set of lecture notes), the reviewer may do injustice to the prospective purchaser/reader by hailing as “excellent” lectures which, when reduced to hard black and white print, distil an essence less than potent. When the reviewer further lacks the benefit and privilege of having heard the original delivery, he is liable to feel like a self-styled connoisseur commenting on a banquet without having partaken, but working from copies of the menu and recipes; no prose composed in such circumstances can be sure of doing justice to the taste, texture and bouquet of the fare presented. Lest this reviewer, in similar circumstances, do less than justice to this author, he invites the reader of this review to bear in mind the above analogy.

“The Price of International Justice” represents the substance of the Blaustein Lectures delivered by Judge Philip C. Jessup at Columbia University in 1970. The first lecture, “The Rocky Road to International Justice”, examines five cases in which international tribunals, applying international law, handed down decisions which were implemented by the disputants. The second, “Who Will Pay the Price”, deals with cases in which the disputant States refused to accept judicial determination as a basis for settlement. The third, and last, lecture, “The International Machinery of Justice” examines the history of the development of international judicial tribunals and considers a number of proposals for improving the usefulness of the International Court.

Let it be said at the outset that this book provides genuine entertainment—often hilarious entertainment—of the type not usually encountered in a book on international law. Few have enjoyed such an intimate and lengthy acquaintance with international society, organization and law as Judge Jessup. His many years as judge of the International Court of Justice at the Hague, his professorship of international law at Columbia, his service as U.S. Representative to the Security Council and General Assembly of the United Nations—all these have endowed Jessup the author with a unique storehouse, rich in vignettes and anecdotes, which adds much to this text.

Two examples may be cited of how this knowledge, coupled with a lively humour, brings the human touch to accounts of events which, dealt with elsewhere, appear all too often as remote incidents of largely academic interest.

In dealing with the *Alabama Award, U.S. v. Great Britain*¹ Judge

1. (1872), Moore's Arb., 656.

Jessup describes how the British clerk affixing seals to the treaty of 1871, which constituted the arbitral tribunal, suddenly burst into tears. Lest it be thought that this impromptu display of emotion is to be ascribed either to patriotism or to awe induced by a sense of history in the making, he explains how, at the critical moment, Lord Tenterden (signing for Great Britain) dropped quantities of burning sealing wax all over the fingers of the unfortunate clerk.

Again, an anecdote in point is used to illustrate how judgments of the International Court of Justice may be complied with—but grudgingly! In the *Temple Case*,² the I.C.J. awarded the territory in dispute to Cambodia and ordered Thailand to withdraw its troops from the territory. The Thai government accordingly sent a despatch to its commanding officer on the spot, ordering him to withdraw. The officer found himself on the horns of a dilemma; he had previously declared vehemently that he would never lower the Thai flag flying over the territory, while the judgment and the order were clear. His solution, combining preservation of honour with obedience to the rule of law, was ingenious; he ordered his men to dig up the flagpole and they carried the pole, flag still flying, off the disputed ground. (The reader is warned that this particular item is, as are several others in the text, apocryphal.)

The first two lectures are rich with such sidelights, and flashes of insight into cases which, for the larger part, are already well-known to undergraduate students of international law. In terms of substantive information, however, these first two lectures may disappoint the reader who approaches the text hoping for a vigorous exercise—or even a trot—for the intellect. To be fair to the author, it should be pointed out that the text makes no claim to such function: “These chapters attempt to paint an impressionistic picture of an historic process.” As such, the first two lectures fall into the category (and no pejorative connotation is here intended) of armchair-by-the-fireside reading.

Perhaps it is lecture three which yields most food for thought. Here, Judge Jessup reflects upon a number of proposals intended to create a more vital, active and efficient international court of justice. Many of these are to be found in a speech made to the American Society of International Law by Secretary of State Rogers on April 25, 1970. Among those considered are pleas for greater use of the chambers of the Court, “in an effort to relieve apprehensions about submitting disputes to the fifteen-judge tribunal sitting *en banc*”; for meetings of the chambers outside The Hague, “in order to make the Court more visible to other regions of the world”; for the more frequent use of summary proceedings, and the limitation of the length of pleadings in appropriate cases.

2. *Temple of Preah Vihear (Cambodia v. Thailand)*, 1 C. J. Rep. (1962) p. 6.

The overall impact of the book does not suffer from being over-assertive. The author's conclusions are cautious, even tentative:

“Man will never discover peace and a cure for war, as we may reasonably hope that man will discover health through a cure for cancer.

Yet each time that international judicial surgery is used to excise from the world's political turbulence even a small irritant in the relations of two countries, the world advances a few inches on the long road to peace.”

To some, pessimism may seem fully justified when the future progress of the international legal system is measured in inches rather than leaps and bounds. Yet this comment by one of the world's most respected authorities in the field at least takes account of reality. In the words of the apocryphal Cockney barrister to his equally-apocryphal colleague, “Some we wins, and some we loses, but why does the best ones always get settled down the Whitechapel road?”³

Judge Jessup seems to know the answer.

J. M. SHARP*

ARABINESQUE-AT-LAW

By R. E. Megarry, pp. 32, London (1969).

In his introduction to this delightful little book, Hon. Sir Robert Megarry makes the observation that it was written during a “long, rainy Long Vacation week-end” which he spent in Norway. I rather suspect that it is a book which its author had long wanted to write; and that, if the adverse weather in Norway had not prompted its birth, it would have been born at some other appropriate time. Be that as it may, what counts for the grateful reader is that Sir Robert did manage to find time, in his crowded life, to write it.

William St. Julien Arabin was an eccentric. He was an English eccentric which is to say that he was an eccentric of a very special breed—a breed that contributed much, over the generations, to the characteristic flavour of the English way of life. Is the breed dying out? There is some evidence of this melancholy fact, and it is a matter of great regret, for eccentrics are the vitamins that keep society in good health. They should

3. Whitechapel Road: a street in the East End of London notorious as the site of the violent settlement of numerous underworld feuds.

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