

cover the same subject-matter, though they do cover the same risk, are hardly worth raising in view of the clear decision of the High Court in the *Albion Case*³⁸ set out immediately before and after.

Although it may appear formidable, the above list is not entirely exhaustive of the points of minor disagreement between the author and the reviewer. It should nevertheless not be permitted to obscure the very real contribution that this book makes to the teaching of Commercial Law at university level in Australia. It should be stressed that, given the chosen approach to the subject, there is vastly more with which the reviewer agrees than with which he disagrees and he stands in admiration at the enormous number of cases the author must have read in order to cover so much Australian material.

It has become less customary than it once was to conclude a review with a reference to printing errors. However, it should perhaps be said that this book is fairly liberally sprinkled with them, though mostly they do not affect the sense. An exception occurs at page 6 where a whole line has dropped out and been replaced by a line which is repeated three lines later. Judges' names seem to have suffered particularly. Would the judicial Street family have been as prolific if they had all been called "Strut" (p. 55)? Confusion between the former Lord Justice Ormerod and the present Ormrod, L.J. is always on the cards — it occurs here at page 289 — but it was hardly necessary to turn the latter into "Ormond L.J." at page 214. Bridge, L.J. is pluralized at page 257, while Diplock, then L.J., is demoted at page 203. At page 172 "the Lordships" should presumably have been "their Lordships". Victorian judges Sholl and Crockett, JJ. also have liberties taken with the spelling of their names. To some readers these mistakes may simply cause amusement; others may find that they hold up the smooth flow of the author's prose.

HAROLD LUNTZ*

The International Court of Justice, by J. K. Gamble, Jnr. and D. D. Fischer, Massachusetts, Lexington Books, 1976, 157 pp. \$18.50.

The International Court of Justice has been the subject of some intensive studies over the last decade, and it is with something of a sigh that a reviewer turns to yet another one, hardly daring to hope that it will have some new proposals to make on the Court. This book has a new approach: it is self-consciously "sociological", but it is nonetheless disappointing, for it throws very little new light on the Court, its internal working or on States' attitudes towards it.

³⁸ *Albion Insurance Company Limited v. Government Insurance Office of New South Wales* (1969) 121 C.L.R. 342.

* B.A., LL.B. (Witwatersrand), B.C.L. (Oxon.), George Paton Professor of Law, University of Melbourne.

An early chapter of the book summarizes recent studies of the Court by legal scholars and concludes that "(1) international lawyers are concerned about the national decisions to sue, but (2) they make many different assumptions about governmental motivations, all without empirical evidence" (p. 26). The aim in this study is to make "an objective, analytic approach that tries to discern exactly what the Court has done, how countries relate to it, and ultimately what role it can be expected to play in the future" (p. 5). As part of that approach it seeks to establish "what correlates exist between support for the Court and other national characteristics" (p. 9).

Alas, the results of this research are meagre. It hardly comes as a surprise to learn that states of the Western European region and English-speaking democracies have a higher correlation of "overall" support for the I.C.J. than other groupings (p. 90) and that States from the Western European group are more likely to face each other in Court than members of other groups (p. 109). The fact that these conclusions are based on unimpeachable empirical evidence hardly adds to their value.

How "unimpeachable" however is this empirical evidence? The authors try to establish categories of legal issues and to set out, by examining how they have been handled in the past, what the likely result is going to be. Yet they clearly admit that "Of course, most cases involve several legal issues. In such instances, we chose the main legal issue as it was framed by the Court" (p. 41 FN1). This may very well distort the process: e.g. in the *Nuclear Tests Case (Australia v. France)* the issue chosen by the Court as the decisive one had not even been argued by the parties and was certainly not the most important one.

The authors also comment on the "pro-Court" bias of most of the legal literature (p. 28). This is a fair comment, for lawyers are, by their instinct and training, biased in favour of legal processes. Yet while one may applaud this attempt at a "value-free" analysis of the Court's performance, one must wonder at the authors' attempt to oversimplify many complex background factors, legal and other. Can one adequately assess the types of legal issue with which the Court can deal successfully if one ignores secondary legal issues in cases it has dealt with, some of which have been quite significant (e.g. some of the subsidiary issues in the *Barcelona Traction Case*)? To the lawyer there are some truly astonishing statements, such as the attempt to correlate a State's attitude towards the Court with the amount of time it has had a judge of its nationality on the Bench. "The most striking thing is the Soviet bloc score — they have the highest level of representation on the Court, yet one of the lowest support levels". No mention is made of the arrangement by which the United Kingdom, France, the U.S.A., U.S.S.R. and (until recently) China always had a national on the I.C.J. Bench — an arrangement responsible for the demand of other States to have the right to appoint *ad hoc* judges in matters concerning them and clearly affecting any attempt to draw

useful parallels between the presence of nationals on the Bench and the degree of support given to the Court.

The most interesting part of the book is the list of variables for each State relating to geographic, economic and demographic information, degree of international activity and nature of political system. The attempt to correlate these to the degree of support for the Court is novel, but still seems to turn out the same results as the older "untested" surveys. The authors conclude that we need more information about State attitudes towards the Court — hardly a revolutionary finding.

The book is replete with an impressive number of tables and charts, but the authors admit that their models are still incomplete and need further work. While commending the book's purpose to throw new light on the institution, the final assessment of this reviewer is that it has added little to existing knowledge of the Court.

LYNDEL V. PROTT*

* Dr. Jur. (Tübingen) Licence Spéciale en Droit International (Brussels), B.A., LL.B. (Sydney), Senior Lecturer in Jurisprudence and International Law, University of Sydney.