BOOK REVIEWS

THIS "FIRE-PROOF HOUSE"*. By Ivan L. Head (ed.), for World Law Foundation, Dobbs Ferry, N.Y.: Oceana Publications, Inc., 1967. Pp xi and 176. ($6.00).

The bulk of this book consists of papers which were presented at the Conference on "Law and Order in the International Community" held at Banff in June, 1965. The authors of the papers are, with one exception, either Canadians or persons of Canadian origin. Three other papers have been added to the collection. A number of papers deal with the larger problems of the international scene. In pleasant contrast, other papers deal with the practical problems of a United Nations Force (by General Burns), the practice in the United Kingdom and the United States relating to international claims on behalf of nationals and a survey of the (to me fantastic) problems that face Canadians.

As very much an amateur international lawyer, I am unable to fall back on such book reviewing techniques as: "Professor X has said this earlier, better, more briefly, or with more style". Having declared my status, I can safely say that I found the book not only enjoyable but full of valuable material.

Much of the book is concerned with two of the three essentials of a mature international legal system—compulsory adjudication and a police force. It is perhaps a little unfortunate that no paper dealt in detail with the third essential—a legislature. The need for such a body was, of course, recognized. Professor Ivan Head, for example, says:

> The power of a municipal legislature to act as a curative for unacceptable judicial pronouncements serves as a safety valve in circumstances where political feeling runs high; the legislature's power to clarify or embellish the law acts as a deterrent to the legislative tendencies of a court. Neither of these salutary effects is found, necessarily, in the international community.[1]

And Mr. Gotlieb states that the Preamble to the 1928 Kellogg-Briand Pact reflected:

> . . . not so much any new doctrinal concept of the nature of change in international relations as a realization on the part of States that, once force is eliminated as an instrument of interstate relations, alternative ways must be developed to alter the *status quo*.[2]

Although the establishment of an international legislature will not occur in the near future, we are already seeing some tentative steps in that direction (compare, for example, article 26 of the Covenant of the League of Nations and article 108 of the Charter of the United Nations).

In the opening chapter, Professor Head examines some of the reasons for the general reluctance on the part of states to accept compulsory adjudication. In his examination he concentrates upon the defects of

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1 At 9.

2 At 92.

the law and the administration of the law. But, accepting his criticisms, it is true to say that in some areas the refusal to accept compulsory adjudication cannot be blamed on the law or its administration. The attitude of the Soviet Bloc on this issue is well known and, indeed, Mr. Gotlieb[3] points out that during the disarmament negotiations the Soviet Union strongly criticized suggestions that, as a part of a disarmed world, there should be a system requiring compulsory settlement of disputes. The refusal of the Soviet Bloc to sign the Optional Clause can, perhaps, be justified. However, it is difficult to see any justification for their refusal to agree to compulsory adjudication of disputes concerning, for example, the Vienna Convention on Diplomatic Immunities (1961). In view of the limitations on sovereignty in the Charter of the United Nations, it is difficult to accept the arguments made, for example, during the Vienna Conference (37th and 38th Meetings) that compulsory adjudication would violate the principles of equality and sovereignty of states. Again, it is very difficult to justify the attitude of the United States to the Optional Clause. One optimistic point is made by Mr. Gotlieb. He shows[4] how in certain limited functional spheres members of the Soviet Bloc have now accepted third party settlement.

The two contributions to the book which I most enjoyed reading were those of Dr. Conway on "The Politics of Peace Keeping" and of Mr. Gotlieb on "International Law in a Disarmed World". Dr. Conway shows how the political assumptions made about peace-keeping in 1945 have been completely reversed. In 1945 it was thought that "peace would be maintained, as the war had been won, by great power unity". It was, he says, "the idea of the fire brigade". Today, he says, we rely on a peace-keeping force not as an enforcement agency but merely as an "asbestos curtain to separate the warring parties". We have no "device for really defeating aggressors". "We have no moral hue and cry against an aggressor, but rather we have seen the willing acceptance of peace-keeping elements by both sides in a dispute."

To these changing assumptions, one could perhaps add a further change seen only in the last few years. Until recently the support of successful revolutionary movements by either the United States or the Soviet Union might have some consequential practical advantages. It was thought that a grateful revolutionary regime might allow foreign bases and would provide good opportunities for trade. Now, however, we have seen that revolutionary regimes are usually anxious to maintain their independence and the arrival of the land-based or submarine-based rocket and the advent of supersonic transports make such bases redundant. We have also seen how profitable trading relations may be maintained between countries which have different political regimes (see, for example, the trade in rubber between Malaysia and the Soviet Union). This, to my mind, is a most important change. It is unlikely, now, that we will see attempts by the big powers to alter the territorial *status quo* in any substantial manner. World peace has been and is more likely to be endangered by the big powers taking sides in internal conflicts. It will, no doubt, be many years before states will completely keep out of internal conflicts in other states, but the era of non-inter-

3 At 79.
4 At 83.

vention is closer when two of the reasons for intervention have disappeared.

In his chapter on "International Law in a Disarmed World" Mr. Gotlieb discusses the Western conception of an international society without arms and the differing Soviet conceptions of such a society. Tracing some of the advances in the field of disarmament negotiations, he also shows how the United States and the Soviet Union have remained flexible in the negotiations. He points out, for example, how the Soviet Union, which had been opposed to the Partial Test-Ban Treaty, suddenly accepted it. Mr. Gotlieb also warns of the dangerous situation that could result if a disarmament agreement were to be disrupted by a local conflict which escalated. He says:

> There would be a race towards the production of nuclear weapons and the first country to get there would obviously be the strongest power in the world. In circumstances where there were no nuclear or large conventional weapons in national arsenals, the breakdown of a general disarmament agreement would create a highly uncertain situation which could conceivably be worse for the peace than the present situation. Thus the problem of resolving political disputes in a disarmed world is an exceptionally important one.[5]

In view of the fact that this book is primarily a Canadian venture, it is fitting to conclude with a passage written by Judge Read in foreword to the book. After outlining the development of the study of international law and international affairs in Canada, he states:

> The Banff Conference and *This "Fire-Proof House"* mark the culmination of a long period of spectacular development. They can be regarded as the celebration of the coming of age of international studies in Canada.

—ANTHONY HOOPER*

5 At 85.

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COLLECTIVE BARGAINING LAW IN CANADA. By A. W. R. Carrothers. Toronto: Butterworth and Co. (Canada) Ltd. 1965. Pp. lxxxix and 553. ($21.50).

The small body of Canadian legal literature is greatly strengthened by the publication of Dean Carrothers' major work. Students and teachers of labour law and practitioners in the field have found *Collective Bargaining Law in Canada* to be a most welcome addition to the author's already extensive writing in the field.[1]

More than in any of his earlier work, Dean Carrothers demonstrates his ability to make law readable and meaningful by highlighting the underlying attitudes and concepts of lawmakers. These broad strokes are particularly useful to the student and the non-specialist, who otherwise are soon lost in detail. Not that there is any lack of precise legal detail in this work. Quite to the contrary, the only real criticism that can be made of the book is that for one rather long stretch the fine brush takes over completely. But where the broad and the fine are working together the result is very good indeed.

1 The Labour Injunction in British Columbia, (1956); Labour Arbitration in Canada, (1961); several major articles in the Canadian Bar Review, the University of Toronto Law Journal and the University of British Columbia Law Journal.