

making. Albeit confined as yet to the automobile accident, an older Saskatchewan plan is now being joined by a variety of enactments from British Columbia, Ontario, Manitoba and Alberta. These may be serving only as a breathing-space, for the reader of Atiyah's book, as well as the writings of others such as Calabresi and Palmer, cannot but immediately remark upon a universality in their scope that presages the relentless erosion of other areas over which the law of torts as it relates to personal and property loss presently enjoys hegemony.

From another vantage point, this book illustrates a utility and effectiveness which are likely to accompany the more functional study of what is now often fed to the law student. For example, once safely past the intricacies of a first-year course in Torts, he may wonder why the courts,<sup>6</sup> and, more pertinently, the scope of his own course on the subject, eschewed much if any reference to private insurance coverage and other forms of compensation available to an injured litigant. How very much less satisfying and instructive it must seem to him to study Torts, Insurance and Social Legislation as discrete entities when, either as one interested in the policy questions that so much permeate what Professor Atiyah and others have written or even as someone concerned almost exclusively with the solicitor's task of working within the system as it now is, he might study them as lively and interacting components of a larger whole. What better emphasizes this than the political drama that accompanied the enactment of Manitoba's programme, the "hard-sell" publicity campaign presently being pursued by private automobile insurers in Ontario and elsewhere, and, simultaneously, their response to criticism and the demands of the market in the form of new and broader coverage.<sup>7</sup>

—HENRY L. MOLOT\*

<sup>6</sup> *E.g.*, *Koebel v. Riv* [1958] O.R. 448; *Hellmuss v. Lees* [1971] 1 O.R. 273 at 279-281, *affirmed* by Supreme Court of Canada, 27th April, 1971. But *cf.*, *Lauchbury v. Morgans* [1971] 2 W.L.R. 602 (C.A.).

<sup>7</sup> *E.g.*, Ross, *New Development in the Settlement of Automobile Liability Claims*, (1971) 48 J. Urban L. 449; *The Edmonton Journal*, 28th April, 1971, at 53.

\* B.A. (Toronto), LL.B., LL.M. (Yale), of the Canadian Department of Justice.

FOREIGN INVESTMENTS AND INTERNATIONAL LAW. By George Schwarzenberger. London: Stevens; New York: Praeger. 1969. Pp. xxiii and 237. £ 3.18s.

Until after the Second World War the number of international lawyers interested in international economic law was somewhat small, and most of these were concerned with international financing and monetary matters. The tendency was to regard many of the issues falling within this field as questions of private international law. One of the main causes for this was that there was, with the exception of the socialist countries, comparatively little state control of international business relations and but few treaties concerned with such issues. Among the few writing in the field of the public international law aspects of the problem was Professor Schwarzenberger, and he

has now turned his attention to what is perhaps one of the most significant practical questions of this kind, namely *Foreign Investments and International Law*.

As with so many of the matters which fall within the umbrella of international economic relations this aspect owes much of its growth to British practice and the first part of the monograph is devoted to an analysis of the protection of investments abroad in the mirror of British practice. The author points out that, while it was accepted in customary law that "private property is subject to the municipal law of the sovereign State in which it is situated,"<sup>1</sup> "the State whose jurisdiction foreigners were meant to accept was the liberal State of the nineteenth century, the guardian of a capitalist economy and free enterprise"<sup>2</sup> so that the purposes for which private property, certainly that belonging to aliens, could be expropriated were extremely limited, with the *Pax Britannica* and the Royal Navy seeking to ensure that the rules were obeyed and compensation of a real character promptly paid.<sup>3</sup> He also shows how experience with bilateral treaties, especially when entered into with some of the newer States, has made Britain and other large developed States more prone to resort to multilateral arrangements. "In any case, this ideology provides a 'progressive' facade and assists in covering up more pragmatic considerations."<sup>4</sup> In fact, in so far as British experience was concerned, the events of the post-1945 era, such as Suez, Anglo-Iranian Oil and the like, had made "the bilateral possibilities in the field of the protection of British investments overseas appear increasingly unattractive,"<sup>5</sup> so that the United Kingdom was ready to make its own contribution to the development of multilateral experimentation in this area.

Professor Schwarzenberger, in the second part of the book, deals with the Abs-Shawcross draft convention on investments abroad of 1959. Although this might be described as constituting the minimum of protection to safeguard foreign investors effectively against unwarranted interference by the host State, "even moderate governments of capital-importing countries find it impossible to pay the political price" envisaged by the Draft,<sup>6</sup> which has never come into force. He then examines the Convention on the settlement of investment disputes drawn up by the World Bank, which by mid-1968 had been ratified by forty of the fifty-seven eligible signatories, although the capital-importing countries of Latin America, as well as Greece, Turkey, India and Indonesia were notable absentees.<sup>7</sup> After that there is an examination of the 1967 work of the Organisation for Economic Co-operation and Development which resulted in a further draft convention on the protection of foreign property, and the monograph closes with a discussion of some of the choices that the author considers open to investors, having first suggested that perhaps an investment insurance

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<sup>1</sup> Schwarzenberger, *Foreign Investments and International Law* 4.

<sup>2</sup> *Id.* 23.

<sup>3</sup> *Id.* 24.

<sup>4</sup> *Id.* 39.

<sup>5</sup> *Id.* 105.

<sup>6</sup> *Id.* 134.

<sup>7</sup> *Id.* 151.

agency might be a sound innovation in this field of activity, although he is aware:<sup>8</sup>

that, in terms of the political and psychological realities of the 'third world', any such proposal is unrealistic in the extreme. If this were so, the reasons for this state of affairs would be an accurate measure of the even more utopian expectation that, in such a climate, further export of private capital on any major scale to the majority of capital-importing States could be more than the worst type of gift-one unintended by the donor.

Professor Schwarzenberger's *Foreign Investments and International Law* is a most useful contribution to the legal literature concerned with this complex, but highly significant issue in international economic relations. Apart from serving as an analysis of the problem, it provides an example of the work that may be done in various specialised fields of international law and not merely in the financial or economic area. Graduate students seeking thesis topics might not find a subject upon which to write, but they would be well advised to examine the approach and the method and apply them to their own researches.

—L. C. GREEN\*

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\* *Id.* 180-1.

\* University Professor, University of Alberta.

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THE LAW AND ORDER. By Alois Troller. Leyden: Sijthoff. 1969. Pp. 90.

LAW WITHOUT SANCTIONS. By Michael Barkun. Montreal: McGill University Press. 1968. Pp. ix and 179. \$6.50.

AN INTRODUCTION TO THE SCIENCE OF PEACE (IRENOLOGY). By J. G. Starke. Leyden: Sijthoff. 1968. Pp. 214.

THE POLITICS OF PEACE-KEEPING. By Alan James. London: Chatto and Windus for the Institute of Strategic Studies. 1969. Pp. 452. \$12.50.

The significance of law and order for the maintenance of peace in society is a matter of continuing concern for both municipal and international law. Each of the books under review makes its own contribution to this problem. Dr. Troller's *The Law and Order* is described as an introduction to thinking about the nature of law and rests on the premise that every facet of life is by its nature based on order, which he finds to be essential for man in community: "If man had the power to rebel against the order regulating his community life, and made use of that power, he would surely perish for it is the structure which supports his existence on Earth."<sup>1</sup> By legal order the author means the "order" which regulates the relations of men *inter se* "as individuals and as individuals within groups or to humanity as a whole."<sup>2</sup> Its purpose "is to regulate all interpersonal relationships, great and small, and to preserve human society by enabling it constantly to solve the problems and threats facing it."<sup>3</sup> Having thus set out what he

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<sup>1</sup> Troller, *The Law and Order* 11.

<sup>2</sup> *Id.* 13.

<sup>3</sup> *Id.* 22.