as the period during which perpetuities are permitted. The final type of "Dead Hand" control discussed is the devotion of property to charitable purposes and necessary reforms in the law of charities.

The book combines a mastery of the detail of property law with a largeness of view which is unusual amongst such masters.

Fratcher's book, *Perpetuities and Other Restraints*, is a detailed study of the law of perpetuities, accumulations and other restraints on alienation under the common law of England and under the law of Michigan. The law of Michigan has been enormously complicated by the introduction of statutory provisions derived from New York replacing the rule against perpetuities as regards realty and chattels real. After more than a century of this experiment the State of Michigan in 1949 abolished these innovations and reverted to the classical rule. The book traces the difficulties experienced in Michigan with the substitute for the rule against perpetuities and supports Professor Simes' contention that the attempts in the United States to dispense with the rule have been unwise.

At the same time as Michigan introduced its substitute for the rule against perpetuities, it introduced restriction on accumulations. In 1952, it repealed these statutes so that accumulations are now permitted in Michigan within the limits allowed by the rule against perpetuities. The influence of Simes' view may perhaps be seen here.

The exposition of the history of the common law rules does not contain anything original but is admirably clear. A book dealing with the law of Michigan presents an impossible task to a reviewer but the history of Michigan's attempts to make the substitutes for the rule against perpetuities work should deter others from trying likewise.

F. C. HUTLEY*

International Law, A Treatise (Vol. 1, Peace), by L. Oppenheim, M.A., LL.D., 8th ed. 1955 by H. Lauterpacht, LL.D. London, Longmans, Green & Co., lvi and 1072 pp. with index. (£6/17/9 in Australia).

There have been three editions of this famous classic of international law since 1947 and each has shown, with increasing clarity, the hand of the editor Professor (now Judge) Lauterpacht. Indeed, in the preface to this edition, Professor Lauterpacht estimates that the Sections written by Oppenheim now "comprise only one-third—or less—of the total contents of the work" and adds that "even those Sections—or what is left of them—have undergone changes of substance and of form."

The eighth edition, despite the fact that many obsolete references and the voluminous table of "Treaties Establishing International Unions" have been omitted, is about one hundred and fifty pages longer than the seventh edition. At a conservative estimate, at least one fifth of the new edition has been contributed for this edition by the editor, and the first question which the reviewer of this work must face is a rather obvious one: just whose book is it? For Oppenheim has become an occasionally untidy conglomeration of the remnants of the original work written by the clear-thinking positivist, Lassa Oppenheim, and the views inserted (or superimposed) by Roxburgh, McNair and Lauterpacht in successive editions.

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This is not so much a reflection on the editors. One can feel nothing but admiration for the learning, scholarship and industry which the three great publicists have devoted to the rather thankless task of editing the book. The resultant work is however strong evidence for the view that brilliance and originality can often be more of a disadvantage than an advantage in the armory of the editor of another scholar's writing, unless he is prepared to confine his task to keeping the work up-to-date without asserting his own views. This, Professor Lauterpacht at least, has never been prepared to do.

In theory the book is the work of a strict positivist. International law is defined as "the body of customary and treaty rules which are considered legally binding by States in their intercourse with each other" (p. 4). Professor Lauterpacht is, however, the leading British champion of what he calls the "Grotian view" which denies the exclusiveness of treaties and custom as the source of international law and insists on the importance of the law of nature, and he has not hesitated to attack views which Oppenheim had accepted as axiomatic. In particular, Lauterpacht sees the direction to the International Court of Justice contained in Article 38, paragraph I of the Court's Statute, to apply the "general principles of law recognised by civilised nations" as sounding the death knell of positivism and as marking "the explicit abandonment of the positivist view, according to which treaties and custom are the only sources of international law" (p. 30). While the present reviewer is in complete sympathy with Lauterpacht's impatience with strict positivism and insistence on the place of the law of nature as a basis of any system of law, it seems difficult to accept the contention that Article 38 (I) of the Statute of the World Court has finally "terminated the controversy" in favour of the Grotian view, or to see this as justification for abandoning so much that was basic in Oppenheim's thinking.

Many of the conclusions which Oppenheim reached on specific problems are likewise no longer accepted in the present edition. For example, his view that States and States only are subjects of international law—a proposition with which a great many modern publicists agree—is flatly denied. On many other points his views have been greatly modified. The Sections dealing with Recognition, for example, have been so modified that they now represent the conclusions of the editor rather than those of the original author, and this despite the fact that the views which Oppenheim set out in the early editions of the book still enjoy the support of a great many international lawyers. One can, indeed, go so far as to say that the eighth edition of Oppenheim is, because of its very nature as a pot pourri, a book without the character or force of any consistent approach to the problems of international law—or, for that matter, without true character at all.

In one respect, however, the eighth edition is strangely similar to the first edition published in 1905. It is a text book of international law in a vacuum. In 1905 Max Huber had not outlined the programme for a sociology of international law, nor was it appreciated that the function of the international lawyer extended far beyond the simple setting out of the dry content of alleged legal rules. The first edition can be said to have been typical of a period when it was rank heresy to suggest that any worthwhile text book on international law must examine international law as a working system in its proper sociological perspective with statement of the content of rules but a part in the process of understanding the source, the nature, the weaknesses of, the stresses on, and the failure or success of, those rules in practice. Today, fifty years after Oppenheim first wrote, the sociology of international law has made some, if not anything like satisfactory, progress and the advances made have been sufficiently substantial to make a text book written with a 1905 approach completely inappropriate for the modern student.

It is no longer sufficient in a text book on international law to set out, after formal analysis, the precise legal content of legal rules. It is necessary

that these rules be seen in action and that attention be paid to their existence in a legal system which knows neither real legislature, effective executive nor satisfactory judicature. Legal rules must be examined in the whole context of social life, and it seems inconceivable that in a modern work on international law of more than one thousand pages no real examination—indeed almost no mention—is made of what has been called the "contemporary bipolarized world" in which the fundamental prerequisites of any legal community are being undermined and against which it is alone possible to understand the contemporary working of international law. Equally surprising, for example, is the scant attention paid to the Soviet approach to international law and the role of the doctrine of sovereignty in disputes between Communist and Western States.

This is not to say that Oppenheim has ceased to be a useful book. Provided the very real limitations of the work are kept in mind and it is not used as a comprehensive text book, it remains a most useful treatise on the content of the formal rules of international law and an invaluable source of reference material for the student. In this edition the references have been brought up-to-date with admirable thoroughness and many obsolete references have been wisely discarded.

Professor Lauterpacht has also taken note of most of the new development in formal international law, whether the developments are the result of law-making treaties or, as he claims is the case with the doctrine of the continental shelf, of the development of customary international law. Deserving of particular praise are the sections dealing with Human Rights and the long informative Appendix on Specialised Agencies of International Co-operation and Administration which appears for the first time in this edition.

On the whole, however, the volume is a disappointing one. Despite the rather grim warning on the dustcover that "to criticise this book would be presumptuous" and notwithstanding the great merits of the work, this reviewer cannot but feel the time has come to discard it as the most widely used English text book for students of international law and to assign it its place on the bookshelf among the general reference volumes.

WILLIAM DEANE*

Professional Negligence, by J. P. Eddy, Q.C., with a foreword by the Right Honourable Sir Alfred Denning. London, Stevens & Sons Ltd. Australia, The Law Book Co. of Australasia Pty. Ltd., 1955. xii and 146 pp. (19/6 in Australia).

In this work the author first reviews the general principles of the law of negligence in tort and contract. The duties and liabilities of professional men are thereafter studied profession by profession. Barristers and Solicitors are the subject of the second chapter, Bankers, Accountants, Auditors and Company Secretaries occupy the third, in the fourth Doctors, Hospitals and Dentists are examined, and there is a final chapter touching the situations in turn of Architects, Surveyors, Engineers, Valuers, Chemists and Insurance Brokers. The book is not designed primarily for reading by the legal profession, consisting as it does of the record of the Travers Memorial Lectures, a series designed for the promotion of commercial education in the City of London.

It is obvious that there is a demand for this kind of book, for it has passed through two impressions in the year of publication. Its first positive virtue is

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