The one real surprise was to learn (§1202) that the Australian citizen is taxed at the rate of 471½ cents in the dollar. Alas for those dreams of emigrating! But one can only express the hope that Ford's Company Law will go on from strength to strength and from edition to edition, even if the successors to the present volume have to be written from some South Pacific tax haven.

L. S. SEALY*

Der Internationale Richter im Spannungsfeld der Rechtskulturen. Eine rechtssoziologische Studie über die Elemente des Selbstverständnisses des Internationalen Gerichtshofs by Lyndel V. Prott, Volume 2 of the Tübinger Schriften zum internationalen und europäischen Recht, edited by Thomas Oppermann. Berlin: Duncker & Humblot, 1975. 257 pages. (The English version of this book, *The Latent Power of Culture and the International Judge* (Professional Books Ltd.) will issue in 1978).

This equally original and useful work yields an insight which would be otherwise hard to obtain into the internal modes of work of the International Court of Justice, the Court of the European Communities and the European Court of Human Rights. The authoress gained her knowledge not only from detailed interviews with eleven judges of these Courts, but also from a thorough analysis of judgments and opinions, especially those of the ICJ. Thus she shows for example through comparisons of the mode of expression in Sir Percy Spender's minority judgment in the *South West Africa Case* 1962, how far his ideas in that opinion came to be asserted in the controversial majority judgment in the same case in 1966. Other analyses of the authoress of language and style are very informative.

The authoress goes far beyond international law in order to be able to assess the function and task of the three courts mentioned, and especially of the ICJ. She discusses the role awareness of the judges with the tools of sociology. The international lawyer should not however be frightened off reading this book by the use of some terminlogy which is strange to him, such as "role-transmitter" and "group theory". The authoress explains these concepts clearly. So far as she has recourse to sociological theories, virtually only principles are dealt with, so that individuals and groups behave as one would also expect on the basis of general experience and common sense.

The conclusions which the authoress draws from her work are certainly not only for sociologists but particularly worthy of attention also for international lawyers in general and for the International Court of Justice

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in particular. The ICJ is dependent on its work being accepted by world public opinion, even more so than the Court of European Communities and the European Court of Human Rights. The authoress makes certain proposals for the improvement of this relationship, which is not without its problems, especially since the South West Africa judgment of 1966. In this respect she evaluates both the institution of the judge *ad hoc* and also the right to present separate and dissenting opinions in a very positive way, since both contribute to the pacification of emotions, especially those of the losing party. The authoress recommends that the members of the ICJ free themselves of unconscious bias which they have absorbed from their national legal training as far as it is possible for human beings to do so. Indeed judicial training in continental Europe is not really ideally suited to the acquisition of a world wide acceptance of the ICJ judgments which are built on this tradition, thus the ICJ has always and with good reason refused to use for instance the French style of judgment which is comprehensible to specialists alone. But the principles of German judgments are likewise not designed to reach the understanding of public opinion for ICJ judgments, which are drafted on this principle, especially in the Third World. The authoress refers to the dispute over the Temple of Preah Vihear which was decided, according to German concepts impeccably. Here the ICJ discussed a single argument, i.e., that of estoppel by laches since this was sufficient on its own for the rejection of the claim. To win acceptance for its judgment, the ICJ should here, however, have gone into the sociological, historical and religious arguments brought before it by the parties, which in their eyes were more important than the formal argument as to estoppel. The stringent reasoning of the pure theory of law has for similar reasons not the same force of persuasion for an audience made up of all the cultures of the world as it has in Europe and America. Pronouncements which are based on a national law established through universal comparative law meet with much greater acceptance. Thus the attempts of Ammoun to create a more congenial atmosphere for the ICJ by emphasizing the historical role of African peoples in pre-Colonial times are to be valued positively for the improvement of the acceptability of its judgments. The authoress finally warns of the danger of the ICJ applying solely the *lex lata* in the rigorous formal manner that it did in the *South West Africa Case* 1966. The world public experts from the ICJ a certain stability to be sure, but also at the same time a certain cautious development of the law and an adaptation of the traditional law to new circumstances. The dangers of this path are known to the authoress. It is precisely her detailed discussion of the predispositions of the judge and the ways in which his opinion is formed which could direct the judge to self-controls so as to exclude at least unconsciously partial behaviour. Not only the authoress's careful analyses but also the recommendations

marked by common sense deserve the full attention of the international legal community.

IGNAZ SEIDL-HOHENVELDERN*

Fiduciary Obligations, by P. D. Finn, Sydney, The Law Book Company Limited, 1977, xxxvii + 299 pages (including index) $24.50.

This book is unlike any other writing on fiduciary obligations. Meagher, Gummow and Lehane's *Equity Doctrines and Remedies* (1975) covers much of the subject matter of Finn's work, but their objective is to analyse doctrines of equity generally, while Finn concentrates on those equitable obligations which judges have labelled "fiduciary". Consequently there are differences of content and organisation. In particular, Meagher, Gummow and Lehane's chapter on "the fiduciary relationship" deals only with the fiduciary obligation not to put interest in conflict with duty, and there are separate chapters on undue influence and confidential information; most of this material, and more, is covered in Part II of Finn's book and Part I deals with fiduciary powers, a topic not discussed systematically by Meagher, Gummow and Lehane. Some discussion of fiduciary obligations may be found in Goff and Jones' *Law of Restitution* (1966), where once again the topic arises in the course of a wider undertaking, and in some illuminating articles by Sealy,[1] which obviously influenced Finn.

Starting with the proposition that the definition of the fiduciary relationship changes, depending upon the specific obligation being considered, the author organises his work around a series of rules and subrules which particularise the various fiduciary obligations. Many of these rules are original formulations by the author. Judges have tended in this field to move directly from moralistic precepts to decisions on the facts. Therefore authors are forced to formulate the intermediate premises for themselves, and no criticism can be based on the fact that the rules produced in this fashion cannot be found stated in the cases. But one aspect of the organisation of Finn's book is open to question. This reviewer would have appreciated more explanation of the relationship of each rule to the others. For example, the so-called "purchasing rule", which limits a fiduciary with respect to the purchase of his beneficiary's property, is discussed in Chapter 20, and Chapter 21 deals with the rule which prevents a fiduciary from putting himself in a position in which interest and duty conflict. To the uninitiated, the former will look rather

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[1] "Fiduciary Relationships" [1962] *Camb. L.J.* 69; "Some Principles of Fiduciary Obligation" [1963] *Camb. L.J.* 119.