Nations (Part III). To comment on twelve questions would go beyond the scope of this review. However, a short word on a few of them appears pertinent. We shall focus on chapter 21 dealing wiith State Immunity, chapter 23 on the Definitions of Aggression, and chapter 24 on Reservations to Treaties.

The treatment of State Immunity within the ILC was marked by harsh confrontations, particularly on points of substance. This accounts for the preparation of none less than eleven reports in the hands of two successive Special Rapporteurs (Sucharitkul and Ogiso). A set of Draft Articles was adopted in 1991, most of which became a target for severe criticism on the part of governments. As Sir Arthur comments, the UN General Assembly did not seem too keen to advance on this topic and it was not until 1999 that it established an open-ended working group of the VI Committee to consider the main points of disagreement within the 1991 Draft Articles which, inter alia, include the definition of a State, the 'commercial nature' of transactions, issues relating to 'mixed' bank accounts, problems of notification in the absence of diplomatic relations and the enforcement of judgments.

The definition of aggression, as the author reminds us, was taken over by the UN General Assembly without the participation of the ILC which, initially, was entrusted with its treatment. The issue was closed by the general Assembly in 1974 with the adoption by consensus of a definition of aggression stemming from the work of a number of special committees set up for that purpose. This chapter includes part of the ILC's Report on the question (3rd Session, 1951).

In the Introduction to chapter 24 concerning Reservations to Treaties Sir Arthur underlines the difficulties surrounding this question—not only theoretical but also of a practical nature—particularly affecting depositaries. A few reflections follow on the ICJ's Advisory Opinion on the Genocide Convention (1951) and the historical controversy between the advocates of the unanimity rule and those against it, the latter being the criterion adopted by the 1969 Vienna Convention which took the formula from the above-mentioned ICJ Opinion. On this point, however, it should be borne in mind that the compatibility of a given reservation with the object and purpose of the treaty in question in most cases may be easily argued either way. As is known, at the moment Alain Pellet is the Special Rapporteur on this subject and work is in progress. Of historical importance, given the moment it was produced, this chapter includes the 1951 ILC Report on Reservations to Treaties where an analysis of the ICJ Advisory Opinion on Reservations to the 1948 Convention on the Prevention and Punishment of the Crime of Genocide may be found.

To sum up, the work reviewed is a major contribution to the understanding of the result of fifty years of scholarly work by the International Law Commission on a very wide range of topics. All chapters are treated with authority which is hardly surprising given the skill and experience of the author and his contributions to the field as a publicist of note. The three volumes elegantly bound in a self-containing case, are indeed a must for institutions, international lawyers, diplomats, scholars, and all those dedicated to the study, interpretation and application of today's international law.

SYLVIA MAUREEN WILLIAMS

Human Rights and the End of Empire—Britain and the Genesis of The European Convention. By AWB SIMPSON [Oxford: Oxford University Press. 2001. 1161 pp. ISBN 0–19–826289–2. £60.00]

The 'legal' story of the development of international human rights law has become familiar and rather orthodox. It focuses on great moments, seminal texts, and institutions. Of course, the legal story has been placed in its 'proper' political and historical context. At each stage, the lawyers divert off to exercise their distinctive disciplinary talents on the language and interpretation of each addition to the mass of international human rights instruments. Each shuffle forwards is painfully extracted. Each slender new foundation is exalted then quickly minimised to prepare the ground for the next normative or institutional step. Weaknesses and limitations are 'noted', philosophical or theoretical controversies are 'appreciated', but the march of the human rights movement is always forward.

'Human rights' has achieved a greater universal significance than any other idea in history. What has been rather curiously lacking to date has been an integrated account of the history or histories of international human rights. In this substantial volume, Professor Simpson has sought to render such an account, principally from a British historical perspective. He painstakingly evidences the position of rights in the common law system with its distinctive emphasis on the importance of remedies, the evolution of the international protection of human rights before 1939, how human rights became part of the 'war aims', and the irony of how a victorious Great Power with an extensive empire managed to have that Empire destroyed by the same human rights idea. Throughout this part of the book he also notes how the specific language references to 'human rights' only appeared slowly and intermittently, how systems were devised for the resolution of political conflicts rather than for human rights, and that many of the elements of what we now term 'human rights' have a rather longer history. Much of this story will not be new to international lawyers. In particular the debates relating to the drafting of the UN Charter is familiar, as is the story of how the minimalist human rights language of the Charter were transformed by political forces and the tide of history. Texts premised on retaining colonialism became instruments for its demise, in particular Article 73 of the UN Charter. The idea of human rights proved revolutionary and uncontrollable. This makes it very difficult for realist scholars of international relations in particular to explain and rationalise what has happened. So human rights has proved fertile ground for the development of a variety of international relations theories.

Only in the second half of the book do we get to the ECHR. Given the speed with which the ECHR was drafted, and the relatively small amount of preparatory material, academic accounts of the ECHR give little space to its historical evolution. References to the *travaux preparatoires* in the jurisprudence of the institutions have also been minimal, as the ECHR has taken on its own life as a living instrument. We are taken in turn through the drafting of the Statute of the Council of Europe, the ECHR and its First Protocol, ratification of the ECHR, and the debates over its extension to the colonies. Detailed consideration is given to the two cases brought against the UK by Greece concerning Cyprus. These ar interesting in their own right in terms of the legal and political strategies adopted but they are of contemporary significance in the light of the UK's derogation from Article 5 ECHR after the attacks on the US on 11 September 2001.

The story is slow and not filled with much excitement. The range of persons involved (and we are literally informed of everyone who attended every meeting) is so massive that there is room for few principal characters and they remain largely flat and lifeless. The coverage is so extensive that what one sees as themes will largely be a matter of perception. Those that appeared most significant to me concerned the conflicting agendas of the Foreign Office and the Colonial Office, the differences in the approaches to drafting of international instruments (including the UK's horror at having to deal with representatives with little or no instruction), the persistent opposition to petitions on the basis of the fear of their misuse by communists and anti-colonialists, that virtually no attention was given to how the text of the ECHR would be interpreted, the attempts to keep decisions on violations under political control, and the interaction with the drafting of the UN Covenants (the ECHR was signed as disillusion with UN process became total). It is also interesting to have recalled just how much the Council of Europe was seen as a 'spiritual union' whose first venture, the ECHR, could not be seen to fail. Similarly, how the ECHR was viewed as an instrument to stop the slow development of evil regimes.

For modern generations the human rights battles over the ending of the British Empire and the ECHR are largely forgotten, and largely thought to be irrelevant to where the ECHR is now. With a membership of forty-three states, a single full time court, and a mandatory right of petitition, the ECHR is rightly seen as the jewel in the European Crown. This book reveals just how precarious were its foundations. Maintaining the ECHR will require an enduring political will. The account ends in 1966 when the UK accepted the right of individual petition. The pace of change in human rights since then has been phenomenal and the UK's involvement in it would probably reflect rather better on it than does the period under consideration here. A modern acount would take the story up to the Human Rights Act of 1998. This book evidences just how big an historical shift in political and cultural thinking has been necessary for the UK to reach the point represented by the HRA.

This is a major book by a master of legal history. He tells the story in detail and lets it speak for itself. His own commentary is relatively sparse. I would have preferred a little more of Professor Simpson's own voice.

DOMINIC MCGOLDRICK

The Modernisation of EC Antitrust Law. By REIN WESSELING [Oxford: Hart Publishing. 2000. xix + 252 pp, ISBN 1–84113–121–0, (H/bk). £35.00]

The PhD thesis on which this book is based was defended only two months before the publication in April 1999 of the Commission's White Paper on the modernisation of the enforcement of the EC competition rules. Wesseling's analysis of the development of the law is, however, more rather than less valuable as the modernisation project progresses. His basic argument is that competition law should be modernised in a way which takes on board the general developments in Community law following the establishment of the internal market and the Treaty on European Union. For Wesseling, reform should not focus primarily on procedural issues such as modes of decentralisation but should entail a more comprehensive review, embracing matters of substantive law and reviewing the objectives of competition policy.

In Part I of the book the author emphasises the uniqueness of EC competition law, in contradistinction to other areas of Community activity, in evolving 'almost exclusively in the supranational sphere'. The most striking feature of competition law is that Council Regulation 17 of 1962 in effect conferred upon the Commission powers both to enforce the rules and to make policy. The only check upon the Commission has been the Court, which has also pursued an integrationist agenda. Wesseling argues that in the post-Maastricht world competition law should not be immune from developments in the relationship between Community and national law, but should be part of the debate on the future of European integration, looking at objectives beyond integration.

In Part II he considers how EC competition law could and should be modernised with these considerations in mind. At the heart of his review is the question of the division of jurisdiction between the Member States and the EC. He discusses this in the context of a wider consideration of the role of the doctrine of supremacy. He takes issue with what he sees as the overbroad interpretation of the 'affect on inter-Member State trade' criterion and advocates limiting Community jurisdiction to those matters in which there is a real Community interest, as is done with the 'Community dimension' threshold under the Merger Regulation. That, he argues, would be a more effective decentralisation measure than what the Commission is proposing. Since Wesseling completed the book the need for a clear delineation of the jurisdictional scope of Articles 81 and 82 has increased, as the Draft Regulation published in September 2000 contains a provision, unheralded in the White Paper, whereby in cases with an effect on inter-Member State trade (in its current Wesseling-disapproved meaning) Member States could apply only Articles 81 and 82 and would lose their ability to apply domestic competition laws On this point therefore, as on much else, Wesseling's book provides timely food for thought.

Wesseling has equally trenchant views on some other major controversies in EC competition law. He believes that the Commission's interpretation of Article 81(1) is too broad and that it is feasible to interpret the provision in such a way that only agreements which on balance restrict competition are caught by it (he was writing, it should be noted, before the CFI's September 2001 judgment in *Métropole v Commission*). Following from this he considers that Article 81(3), despite the Commission's apparent disapproval in the White Paper, should be employed to cover non- competition concerns. He argues that there is nothing in Community law which provides that the principle of free competition should override all other policy considerations. It follows from this that he cannot accept arguments in favour of an independent European Cartel Office concerned solely with competition issues as such issues must be weighed with other Community objectives. He does, however, consider that there are serious deficiencies in the procedural and