



DANIEL PATRICK O'CONNELL,
R.D., Ph.D., LL.D., D.C.L., F.R.Hist.S., F.A.A.S.A., Q.C.
(1924-1979)

Chichele Professor of Public International Law 1972-1979, University of Oxford;
Reader in Law 1952-1962, Professor of International Law 1962-1972,
University of Adelaide.

DANIEL PATRICK O'CONNELL 1924-1979

Competing, perhaps almost conflicting, influences helped to motivate much of Daniel O'Connell's public life. Together these probably helped to provide a foundation for the originality and strength of much of what he achieved. To outsiders he generally portrayed the authority to which he was so clearly entitled by his international scholarly reputation. More privately he generally showed traits of humility and self-doubt. Frequently these seemed to act as a stimulus for him and a means of breaking new ground in scholarly and other activities.

He was a devoted Catholic by upbringing and in his lifelong faith. He savoured pomp, circumstance and the traditions which went with these. But paradoxically he was also a man in the more austere tradition of Calvin and the Protestant Reformation. His working life epitomised the fulfilment of the protestant work ethic. He had a characteristically Calvinistic capacity for rarely ceasing hard work. This remained with him until his death. And this despite more than one major illness which would have slowed down lesser men.

Daniel O'Connell ranged widely and purposively in his scholarly activities. He was best known and acclaimed for his research and writing in traditionally oriented International Law. This was the main foundation of his international reputation. But he always retained a close interest in Constitutional Law. Not surprisingly in this area, too, he showed a penchant for historical influences and traditional solutions. As generations of students found in Jurisprudence classes he also had an abiding and lively interest in the history of legal philosophy. As well he moved into the arena of historical writing with a biographical study of Richelieu.

At the same time he became increasingly involved in a direct way in the practical working of the law. His advice was sought by governments and others, mostly on matters relating to International Law. His busy schedule came to include visits to many parts of the world to engage in consultations. He was known and much respected for his legal acumen in places as far apart as Queensland and Newfoundland, the islands of the Caribbean and Mauritius. He was especially proud that his standing as a practical exponent of the law he had taught academically for so many years led to his appointment as a Queen's Counsel at the English Bar.

In his adult life part of Daniel O'Connell was never far from Europe. He revelled in discussion of the richness of the baroque, its literature, architecture and music. His almost lifelong interest in military and naval history enabled him to discuss in great detail the campaigns of Marlborough, the tactics at Trafalgar and the consequences of the carnage on the Somme. Once he spent many of his limited leisure hours building, with meticulous care, a model of a seventeenth century English ship of war. His model was based on copies of original plans he had obtained from London.

Intriguingly, however, with all this he was also an antipodean by upbringing and choice, even after he left the University of Adelaide to take up the prestigious Chichele Professorship of International Law at Oxford. He planned to return to Adelaide on retirement. He continued to visit here and work in the Law School library which he had nurtured in the 1950's and 1960's. He retained antipodean instincts and attitudes, not

least his love of hot summers on the beaches of Adelaide and Auckland. He was proud, too, of the contributions of antipodean scholars and achievements like his own which showed that the older centres of learning had no monopoly on knowledge, whatever their pretensions might be.

Politically speaking many probably regarded Daniel O'Connell as a High Tory. For some he seemed to move even closer to an attachment to monarchic forms and aristocratic traditions than his namesake and ancestor, the "Great Liberator" of Ireland. But his political being was much more complex than this. Many of his views showed an attachment to the feelings and attitudes of Edmund Burke, the high priest of the late eighteenth century aristocratic Whigs. Like Burke, he believed that the political, social and religious traditions of the western world and many of its institutional forms were the repositories of transcending values. These should not be hastily set aside, if at all, simply in the name of progress. Nevertheless, in the tradition of Burke, he could also be reformist and liberal, recognising that the *status quo* was neither sacrosanct nor immutable. Rather the values and the institutional forms of past generations should be adapted, perhaps even transformed on occasion, but generally only to preserve the essence of the past to suit changing conditions.

A noted feature of Daniel O'Connell's career was the way he was able to develop and expand his scholarly activities during his years at Adelaide. He came to a Department in the early 1950's which was just beginning to stir again as a centre of substantial academic pursuits. From the mid 1920's through to the end of the Second World War the Law Department itself had produced virtually nothing of scholarly significance. The chief local contributions to legal scholarship in this period came from graduates of the Law School engaged in practice and other activities. The University authorities had long contented themselves with giving the minimum of support to the Law School, an attitude which tended to linger on well after O'Connell arrived in Adelaide, and even after his departure. Despite a lack of support staff and other facilities, compared to those generally provided elsewhere, O'Connell worked with singlemindedness and perseverance to produce major books, including his two-volume work on *International Law*, as well as many other publications. As his reputation grew, outside financial support helped to overcome some of the deficiencies created by a University which was prepared to laud and foster its scientific endeavours while too often treating other sections of the University as being of minor consequence. Even with the considerable assistance he obtained from outside sources it is hard to resist the conclusion that the quality of some of Daniel O'Connell's work was affected adversely by the constraints which existed in his basic working environment. Impishly he once expressed his feeling about University bureaucracy in passages in his biographical study of *Richelieu* which can only be appreciated by an "inner cabinet" of readers.

In retrospect Adelaide provided the "golden years" of Daniel O'Connell's life and work. Academically these were years of striving, enthusiasm for ambitious new projects and a burgeoning reputation. Not surprisingly at times his single minded devotion to causes and activities could carry with it seeds of dispute and conflict like those he hinted at in his book on *Richelieu*. These were years, too, of fresh thinking and new approaches, particularly in the context of his evolving attitudes to the development of International Law. But Adelaide was much more than this. These were

years of marriage, home-building and the responsibilities which come with a young and growing family. These were years with moments of relaxation which would be harder to find in later years. There were films to be seen and discussed, radio columns to write for *The Advertiser* and talks to be given to many groups. Most importantly, this was the time for teaching generations of undergraduates and leaving many with strong and no doubt continuing influences on their thinking and approaches to the law and life.

A Colleague

Select Bibliography of the Printed Work of D. P. O'Connell

I Books

The Law of State Succession (Cambridge Studies in International and Comparative Law No. 5, Cambridge U.P., 1956).

International Law (London, Stevens & Sons, 1965, 2 vols.; 2nd edn., London, 1970, 2 vols.).

International Law in Australia (edited) (London, Stevens & Sons, 1965).

State Succession in Municipal Law and International Law (Cambridge Studies in International and Comparative Law No. 7, Cambridge U.P., 1967, 2 vols.).

Richelieu (Weidenfeld & Nicolson, London, 1968).

International Law for Students (London, Stevens & Sons, 1971).

(edited with A. Riordan) *Opinions on Imperial Constitutional Law* (Sydney, Law Book Co., 1971).

The Influence of Law on Sea Power (Manchester, Manchester U.P., 1975).

II Articles and Notes

"The British Commonwealth and State Succession after the Second World War", (1949) 26 *B.Y.I.L.* 454-463.

"Economic Concessions in the Law of State Succession", (1950) 27 *B.Y.I.L.* 93-124.

"Secured and Unsecured Debts in the Law of State Succession", (1951) 28 *B.Y.I.L.* 204-219.

"Legal Aspects of the Peace Treaty with Japan", (1952) 9 *B.Y.I.L.* 423-435.

"Reconsideration of the Doctrine of International Servitude", (1952) 30 *Can. B.R.* 807-818.

"*Res Ipsa Loquitur*: The Australasian Experience", [1954] *Camb. L.J.* 118-132.

"Rival Claims of Parents in Custody Suits", (1954) 2 *U. Qld. L.J.* 187-205.

"A Critique of the Iranian Oil Litigation", (1955) 4 *I.C.L.Q.* 267-293.

"Recognition and Effects of Foreign Adoption Orders", (1955) 33 *Can. B.R.* 635-653.

"Sedentary Fisheries and the Australian Continental Shelf", (1955) 49 *A.J.I.L.* 185-209.

"The Status of Formosa and the Chinese Recognition Problem", (1956) 50 *A.J.I.L.* 405-416.

"Unjust Enrichment", (1956) 5 *A.J.C.L.* 2-17.

"The Crown in the British Commonwealth", (1957) 6 *I.C.L.Q.* 103-125.

- "The Rational Foundations of International Law. Francesco Suarez and the Concept of Jus Gentium", (1957) 2 *Syd. L.R.* 253-270.
- "Claims to Antarctica", (1958) 2 *Modern Age* 186-198.
- "Problems of Australian Coastal Jurisdiction", (1958) 34 *B.Y.I.L.* 199-259.
- "The Doctrine of Colonial Extra-territorial Legislative Incompetence", (1959) 75 *L.Q.R.* 318-332.
- "International Law and Boundary Disputes", (1960) 54 *Proc. A.S.I.L.* 77-84.
- "Independence and Succession to Treaties", (1962) 38 *B.Y.I.L.* 84-180.
- "The Nature of British Military Law", (1963) 19 *Military L.R.* 141-155.
- "La Personnalité en Droit International", (1963) 67 *Rev. Gen. de Dr. Int. et Pub.* 1-39.
- "State Succession and the Effect upon Treaties of Entry into a Composite Relationship", (1963) 39 *B.Y.I.L.* 54-132.
- "Rationalism and Voluntarism in the Fathers of International Law", (1964) 13 *Indian Y.B.I.A.* 3-32.
- "State Succession and Problems of Treaty Interpretation", (1964) 58 *A.J.I.L.* 41-61.
- "Australian Coastal Jurisdiction" in: *International Law in Australia* (1965), 246-291.
- "The Evolution of Australia's International Personality" in: *International Law in Australia* (1965), 1-34.
- "Independence and Problems of State Succession" in: W. V. O'Brien, ed., *The New Nations in International Law and Diplomacy* (Yearbook of World Polity, vol. III) (Praeger, N.Y., 1965), 7-41.
- "New Zealand and the Law of State Succession" in: J. F. Northey, ed., *The A. G. Davis Essays in Law* (Butterworths, London, 1965), 180-194.
- "The Role of International Law" in: Symposium: "Conditions of World Order" (1966) 95 *Proceedings of the American Academy of Arts and Sciences* 627-643, and: S. Hoffmann, ed., *Conditions of World Order* (Houghton Mifflin, Boston, 1968), 49-65.
- "*A Cause Célèbre* in the History of Treaty-Making: the Refusal to Ratify the Peace Treaty of Regensburg in 1630", (1967) 42 *B.Y.I.L.* 71-90.
- "Problems of Australian Coastal Jurisdiction," (1968) 42 *Aust. L.J.* 39-51.
- "Territorial Claims in the Grotian Period" in: C. H. Alexandrowicz, ed., *Grotian Society Papers 1968. Studies in the History of the Law of Nations* (M. Nijhoff, The Hague, 1970), 1-15.
- "The Condominium of the New Hebrides", (1968-69) 43 *B.Y.I.L.* 71-145.
- "The Australian Maritime Domain", (1970) 44 *Aust. L.J.* 192-208.
- "The Commonwealth Fisheries Power and *Bonser v. La Macchia*", (1970) 3 *Adel. L.R.* 500-507.
- "International law and Contemporary Naval Operations", (1970) 44 *B.Y.I.L.* 19-85.
- "Recent Problems of State Succession in relation to New States", (1970/71) 130 *Receuil des cours* 93-206.
- "The Juridical Nature of the Territorial Sea", (1971) 45 *B.Y.I.L.* 303-383.
- "Mid-Ocean Archipelagos in International Law", (1971) 45 *B.Y.I.L.* 1-77.
- "The Legality of Naval Cruise Missiles", (1972) 66 *A.J.I.L.* 785-794.
- "State Succession and the Theory of the State" in: C. H. Alexandrowicz,

ed., *Grotian Society Papers 1972. Studies in the History of the Law of Nations* (M. Nijhoff, The Hague, 1972), 23-75.

"The Equivalence of the Nautical League and the Cannon-Shot in the Law of Nations" in: *Festschrift für Friedrich Berber* (C. H. Beck, Munich, 1973), 367-375.

"The Present State of the Law on State Succession" in: M. Bos., ed., *The Present State of International Law and Other Essays* (Kluwer, Deventer, 1973), 331-338.

"Adumbrations of the Continental Shelf Doctrine" in: *La Communauté Internationale. Mélanges offerts à Charles Rousseau* (Pedone, Paris, 1974), 173-185.

"The Law of Nature and The Law of Nations" [The Second Richard O'Sullivan Memorial Lecture], (1975) *Law & Justice* No. 48/49, 48-66.

"The Dissolution of the Australian Parliament: 11 November 1975", (1976) 57 *The Parliamentarian* 1-14.

"A Cause Célèbre in the Law of Maritime Neutrality: Hague Convention No. XIII" in: *Um Recht und Freiheit. Festschrift für Freidrich August Freiherr von der Heydte* (Duncker & Humblot, Berlin, 1977), 437-447.

"Monarchy or Republic?" in: G. Dutton, ed., *Republican Australia?* (Sun Books, Melbourne, 1977), 23-43.

"Bays, Historic Waters and the Implications of *A. Raptis & Son v. South Australia*", (1978) 52 *Aust. L.J.* 64-71.

"Canada, Australia, Constitutional Reform and the Crown", (1979) 60 *The Parliamentarian* 5-13.

"Limited War at Sea since 1945" in: M. Howard, ed., *Restraints on War. Studies in the Limitation of Armed Conflict* (Oxford, 1979), 123-134.

"Reflections on the State Succession Convention", (1979) 39 *ZföRuv*.