CONCLUDING REMARKS

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I regret that I have not been able to attend all of the remarkable series of contributions that have been made in the past two days around the theme of tradition in international and comparative law. The many and diverse backgrounds of all who have spoken, and the unity of their commitment to the subject, enable me to say that we are now truly in the presence of a new wave of international lawyers on whose shoulders the future of the subject rests. You are to be congratulated on your evident commitment not only to the subject but also to the course to which it is dedicated—the furtherance of international peace.

My task now is a limited one: to offer a few concluding remarks. These will not attempt to summarise what has been said. Nor will I embark on a fresh analysis of the place of tradition in international law. Instead, I will limit myself to some personal insights and random reflections based on my involvement in the subject now stretching back more than 60 years.

I declare without shame that I belong to an old tradition of international law—the British tradition. Moreover, at my age I am unlikely now to change that commitment in any significant respect.

In the first place, it is the tradition of personal scholarship the range of which is reflected in Oppenheim's two volumes on Peace, War and Neutrality.¹ It was the tradition of his successors as Whewell Professor—Pearce Higgins, McNair, my father Hersch Lauterpacht, and his successors Robbie Jennings and Derek Bowett. Of course, the substantive scope of international law has been greatly enlarged over the past century. It now embraces, as you all well know—international criminal law, international trade, human rights, and environmental protection. But that enlargement does not alter the tradition. The subject remains one which requires an intense personal commitment to scrupulous scientific method and a detailed consideration of established case-law, treaties and state practice.

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¹ L. Oppenheim, *International Law, A Treatise*, H. Lauterpacht (ed), 2 vols (7th edn, 1948-1952). Volume 1 was since updated twice, most recently in R. Jennings and A. Watts (eds), *Oppenheim's International Law*, vol 1: Peace (9th edn, 1992).

At the same time, it is necessary to acknowledge that changing circumstances can lead to changing law. But the changes thus brought about in the law and, to some extent, in legal method, must not be condemned or rejected out of hand. A measure of balance must be maintained. When a court steps outside the limits of predictably established law, as may now increasingly happen on the basis of treaty prescription, doing so by recourse to 'equity' and 'equitable principles', it is essential that the ingredients of such a conclusion should be clearly set out. It is not enough for a tribunal to state a conclusion on a point that has been disputed between the parties simply by saying that it is 'equitable' without setting out what has gone into that equitable solution. It is here that traditional attitudes have a role to play.

Of course, there is much more to tradition. In my career I have attempted to be guided by the traditional standards of the English Bar—a truthful presentation of the facts, honest citation of authorities, respect for the tribunal and for the other party. These are what I see as among the principal features of the British tradition.

That is not to say that tradition prohibits counsel from seeking to persuade a tribunal that the established law needs to be adjusted to meet changed circumstances. But this can only be done in a rational, restrained and courteous manner.

Nowadays, one can perceive a certain move against this sort of tradition. It is felt by some to be old-fashioned, out of keeping with the times. Admittedly, adherence to tradition does not mean that there is no room for change—but my belief is that this can only be brought about by traditional methods. Let us not jettison standards of proven value by simply pretending to be modern, or by slipshod method and arrogant assertion.

I want to end on a positive note. We must be grateful to those who have contributed time and thought to the many issues that have been discussed during these two days. These have culminated in the fascinating exchange of views that we have heard from Professor Pellet and Professor Crawford. On your behalf I thank them all warmly, as I do all the organisers of this meeting. It has been an imaginative and thought-provoking exercise. I wish that I could have participated in it more fully.