In one of his early books, the salacious and less than classic *That Uncertain Feeling* (1955), Kingsley Amis let one of his characters muse on why it was that he liked certain things so much. Insisting in his examination of the question, the character ended his enquiry with an italicized culmination: 'I was clear on why I liked them, thanks, but why did I like them *so much*?' That mood is the correct one in which to approach an appraisal of James Crawford’s latest book, *State Responsibility: The General Part*. One is clear why one likes it, thanks, but why does one like it *so much*?

It is convenient to begin by putting divergent concerns to one side and focusing instead of what Crawford terms *The General Part*. It is not clear whether this choice of title is a nod to Glanville Williams, *Criminal Law: The General Part* (1953; 2nd edn, 1961), where the stated aim was ‘to search out the general rules of the criminal law, i.e. those applying to more than one crime’ (2nd edn, v), or rather to the works of Sir Hersch Lauterpacht, whose collected papers (1970) began with *International Law: The General Part*, in which section Lauterpacht dealt with topics such as the definition, the sources, and the subject of international law as well as its relationship with domestic law. Whichever way the nod goes (and the ambiguity may very well be intended), the gesture is a nice one.

One reason why the book is so good, of course, is the considerable groundwork laid for it in the author’s earlier works. The fact that Crawford, after all these years, could draw on the debates and criticisms not only of the actual work in the ILC, but also the edited collection, by himself, A Pellet, and S Olleson, *The Law of International Responsibility* (2010), of course has stood him in good stead. It is one of Crawford’s many impressive traits that he does not only play to his own, considerable, strengths, but also to those of others.

In searching out the general rules of the law of state responsibility, that is, those applying to more than one delict, Crawford in turn deals with six topics. In Part 1 he deals with the framework of responsibility; in Part 2 he turns to attribution; in Part 3, to breach. Part 4 deals with collective and ancillary responsibility; Part 5, with cessation and reparation; whilst Part 6 deals with the implementation of responsibility. It is impossible here to deal with even a fraction of the questions which Crawford subjects to impressive analysis.
Two of Crawford’s academic predecessors, in the preface of the first published volume of what would later continue as the *International Law Reports*, observed, in a Tennysonian mode not unknown to Crawford, that they suspected ‘that there is more international law already in existence and daily accumulating “than this world dreams of”’ (A D McNair & H Lauterpacht, *Annual Digest of Public International Law Cases 1925–26* (1929) ix). That was in the 1920s. There is little to suggest that the ‘widening and thickening’ identified by Rosalyn Higgins ((2006) 55 *ICLQ* 791, 792) which international law has seen since then has made the law of state responsibility less rich and, potentially, difficult to make sense of.

It is easy, in the wilderness of cases and examples of state practice making up the field of state responsibility, to become perplexed. Some parts of the field could be thought to be sparse. But the fact that expressions of an underlying principle are sparse, or even exiguous, does not mean that the principle is not there. On the contrary the coherence and the uniformity is there for those who are willing, and able, to see. A good example of this is how the International Court of Justice in *Diallo*, on the issue of claim for compensation for non-material injury suffered by an individual, referred to the 1923 award by the umpire in *Lusitania*, who relied on ‘mental suffering, injury to [a claimant’s] feelings, humiliation, shame, degradation, loss of social position or injury to his credit or to his reputation’ (*Ahmadou Sadio Diallo (Republic of Guinea v Democratic Republic of the Congo)*, Compensation, ICJ Reports 2012 324, 333 at [18]; *Lusitania* (1923) VII RIAA 32, 40). The International Court went in the same paragraph on to find expression of the same principle in the jurisprudence of the Inter-American Court of Human Rights (*Gutiérrez-Soler v Colombia* (2005) IACHR Series C No 132, para 82). One of the things Crawford does so well in the book under review, through both diachronic and intra-systemic analysis, is to bring out, and subject to thorough criticism, the underlying principle of the law. Many examples could be given; one will have to do.

In Chapter 6.3, he deals with Article 10 of the Draft Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA; ILC *Ybk* 2001/II(2)), entitled ‘Conduct of an insurrectional or other movement’. Article 10 provides that:

1. The conduct of an insurrectional movement which becomes the new Government of a State shall be considered an act of that State under international law.

2. The conduct of a movement, insurrectional or other, which succeeds in establishing a new State in part of the territory of a
pre-existing State or in a territory under its administration shall be considered an act of the new State under international law.

3. This article is without prejudice to the attribution to a State of any conduct, however related to that of the movement concerned, which is to be considered an act of that State by virtue of articles 4 to 9.

Crawford clearly sets out that, as a general rule, a state is not held responsible for the acts of insurgents, as such a movement, by definition, cannot be considered to be aligned to the interests of the state against which it is fighting (170). The presumptive non-attribution of the acts of insurgents to the states they oppose is, as Crawford shows, amply supported in the early arbitral awards. It is only if the movement is successful in creating either a new government or even a new state that, on a limited basis, state responsibility may arise (171). Whereas the rule in Article 10(1) is uncontroversial, the one contained in Article 10(2) could be thought to be more controversial. Did the ILC, in Article 10(2), simply codify customary international law or is the provision, as one commentator (P Dumberry, *State Succession to International Responsibility* (2007) 234) has observed, more of ‘a doctrinal construction than one based on actual State practice’? It was also queried by Serbia (CR 2014/14, 41–2 (Mr Tams)) in *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v Serbia)* for being based on state and judicial practice that is too sparse for the conclusion to be reached that the provision simply codifies customary international law. As Crawford shows in his book, however, several examples bear out the well-foundedness of Article 10(2).

During the American Civil War, Phillimore, for the British Law Officers, advised that in the event that the rebels were to succeed in separating from the Union, responsibility would be attributable to the resulting new state (Opinion of 16 February 1863, extracted in A D McNair (ed), *International Law Opinions*, vol 2 (1956) 257). The US Supreme Court took the same view when called upon to determine the responsibility of the Union for acts of the Confederacy (*Williams v Bruffy*, 96 US 176, 186 (1877)). The same is clear from several decisions by the French *Conseil d’État* in connection with the independence of Algeria in 1962, where the acts committed by the insurrectionist *Front de Libération Nationale (FLN)* were, in principle, attributed to the new state of Algeria. France was not responsible for these acts; the compensation of the damages attributable to the insurrectional movement ‘concerns the Algerian State’ (*Perriquet*, case no II9737, 15 March 1995). The *Conseil d’État*, which until very recently would never make a
finding of international law without first having consulted the Legal Department of the French Ministry of Foreign Affairs, plainly held that the internationally wrongful acts committed by the FLN before Algeria became independent were attributable to the future State of Algeria (*Hespel*, case no 11092, 5 December 1980; *Perrquet*, case no 119737, 15 March 1995; *Grillo*, case no 178498, 28 July 1999). An example from an international tribunal is *Socony Vacuum Oil Company* (1955) 21 ILR 55, where the US International Claims Commission, *obiter*, indicated that in the case of successful secession the new State was responsible for the acts of the insurrectional movement during the revolution. In addition to these examples comes that of the conduct of the Polish National Committee before the recognition in 1919 of the new Polish State, cited during the drafting of what became Article 10(2) as support of the rule being well-established (ILC *Ybk* 1998/I, 248).

It seems to follow, by necessary implication, from Crawford’s chapter that the fact that the situation envisaged in Article 10(2) only rarely comes to a head cannot in itself mean that there is no principle governing the situation. One is reminded here of the old debate about *non liquet*. On the occasions upon which domestic and international courts and legal advisers have had to deal with the hypothesis set out in Article 10(2), the answer has been clear, and there seems to be no counter examples. It may be that a particular rule of international law rests on a foundation of state and judicial practice which is best described as sparse. Sparseness in itself does not, however, undermine the principle expressed in the rule.

As Crawford demonstrates in his book, the function of the legal scholar is not simply to record practice and to refrain from teasing out principles from practice in areas where the questions are of such a nature that they only rarely come to a head. Rather the role of the scholar is to taxonomize and rationalize the law and to expose its underlying structures and values, or, as Denning once felicitously put it (1952) 1 *ICLQ* 1, 1, ‘to move freely over the boundaries, which seem to divide these fields of law and to bring out the underlying unities’.

International law plainly relies on principles and inferences from them. The point is borne out by the fact that the International Court, in for example *Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste v Australia)*, ICJ, Order of 3 March 2014, para 27 and *Jurisdictional Immunities of the State (Germany v Italy; Greece intervening)*, ICJ Reports 2102 p 99, 123–4, built on the principle of the sovereign equality of states and derived from it the rules on the basis of which the two cases were decided. In the latter the principle had found many expressions, not least in the decisions of domestic
courts; in the former the incidents of the principle were rather more exiguous, but
the principle applied with no less force for that reason. Inferences from principle
are, perhaps, more typical of the Civil than of the Common Law. Crawford shows
the breadth of his range by embracing this type of reasoning, and he does so in the
manner of the open-minded common lawyer, showing how those principles have
broadened slowly down from precedent to precedent. The marrying of these two
registers is how one avoids international law ending up by being no more than a
sum of so many incidents of state and judicial practice.

The general part of the law of state responsibility is no longer ‘a code-less
myriad of precedents’. By expertly and elegantly bringing out the principles
under-girding the law, Crawford in State Responsibility: The General Part shows
us that the law of state responsibility is so much more than a Tennysonian
‘wilderness of single instances’. Perhaps that is why one finds it impossible not
to like it so much?

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*Basic Documents on the Settlement of International Disputes.*
Edited by CHRISTIAN J TAMS AND ANTONIOS TZANAKOPOULOUS.

As a general rule, the study of law centres on the study of texts. Within
municipal legal systems this realization has long resulted in the production of
the statute book, a helpful resource that collects the core documents of a certain
discipline—contract law, tort law, public law, etc.—in the one place. Within such
series, ‘international law’ is frequently the subject of a single volume (see e.g.
M Evans, *Blackstone’s International Law Documents* (10th edn, 2011)) and whilst
this may be helpful at an undergraduate level, the international law academic or
practitioner must often roam wider afield. Moreover, in the past 20 years or so,
the notion of a coherent ‘international law’ has begun to break down, and the
field is subjected to the same kind of specialization—terrorism, law of the sea,
investment law, etc.—that has long been the hallmark of domestic legal systems.
As such, the idea of a single volume of documents concerning international law
generally is no longer helpful in more than an introductory capacity.

For this reason, the reviewer has been delighted in the past few years
to observe the emergence of Hart’s collection of specialized international law