

Judge John Read

The "Minkies" and the Rule of Law

Canada has had only one judge elected to the 15-member International Court of Justice. This was Judge John Erskine Read, who was a member of the Court from February 1946 to February 1958. (Maxwell Cohen was an *ad hoc* judge appointed during the hearing of the Gulf of Maine case.)

Born in Halifax in 1888, Read pursued undergraduate studies at Dalhousie University's Law School and postgraduate studies at Columbia University and (as a Rhodes Scholar) at Oxford. After war service, Read returned to Dalhousie where he was dean of the Law School from 1924 to 1929. Then, for the next 17 years, he worked as legal adviser to the Department of External Affairs, acting as the government's agent in the two major arbitrations with the United States during that time: the *I'm Alone* case (in which a ship registered in Nova Scotia was sunk after a chase by the U.S. Coastguard during Prohibition days), and the Trail Smelter case (transboundary pollution).

Following the Versailles peace conference of 1919, the Permanent Court of International Justice was constituted in 1921. Canada played no part in drawing up the Court's statute, but in April 1945, when delegates of 40 nations met in Washington to draft the statute for a new World Court, Canada was very much to the fore. Read was made Chairman of the Drafting Committee. The draft statute of the Washington Committee of Jurists was adopted, with minor revisions, by the San Francisco Conference and annexed to (and made an integral part of) the Charter of the United Nations.

Read was elected a member of the World Court on the first ballot by the Security Council and General Assembly from among 76 candidates, but he drew by lot only a three-year term (a scheme by which five judges would subsequently be elected every three years). Following his first term, he was re-elected for a full nine-year term.

The 12 years during which Read sat on the World Court have been called "the most active period in the court's history," during which the Court gave 30 substantive decisions. Two of them, the Corfu Channel (1949) and the Anglo-Norwegian Fisheries (1951) cases, were important in developing the Law of the Sea. The Reparations (1949) case, following the assassination of the UN mediator in Palestine, established that the United Nations Organization had powers, beyond those expressly provided in the Charter, which were "essential to the performance of its duties," including the protection of its agents. There were also two early cases involving South-West Africa.

After his retirement from the Court, Read gave three lectures in Saskatchewan in 1960 in the W.M. Martin lecture series (named after a former Chief Justice and Premier of Saskatchewan). In these lectures, published in 1961 under the title *The Rule of Law on the International Plane*, Read looks at the slow growth of international law since the publication by Hugo Grotius of *De Jure Belli ac Pacis* in 1625, describes some of the work of the World Court—going into detail on the *Minquiers and Ecrehos* (1953) case—and puts forward four proposals of ways to advance to the rule of law, to the goal of what he calls "the new Jerusalem." This section contains excerpts from those lectures.

Read began the first lecture by contrasting the comprehensive body of rules and principles governing inter-State relations put forward by Grotius and