way to find a reasonable solution to every problem and to take seriously every reasonable point of view. Doing the right thing was more important to him than gaining some temporary bureaucratic or personal advantage. He never hesitated to give his best and most honest advice, whatever the personal consequences.

The world badly needs more people like Jack McNeill. Now we have one less. We cannot bring him back, but we can try to remember what it was that made him such a fine human being and emulate that ourselves. So, farewell, good friend—we are so sorry to lose you, but so very glad to have traveled part of the journey with you.

MICHAEL J. MATHESON*

CORRESPONDENCE

TO THE CO-EDITORS IN CHIEF:

The Lowenfeld-Clagett discourse about Helms-Burton (*Agora: The Cuban Liberty and Democratic Solidarity (LIBERTAD) Act*, 90 AJIL 419 (1996)) is interesting and learned, but seems to me to miss one obvious—and probably decisive—factor in the debate about the legality of the Act. Perhaps only a few realize it, but the Organization of American States exists; the United States, Mexico and Canada are all members; and all are bound by the Charter of the OAS. That Charter provides in what seem to be unambiguous terms against intervention in the affairs of other member states. Article 18 reads: "No State or group of States has the right to intervene, directly or indirectly, for any reason whatsoever, in the internal or external affairs of any other State." Article 19 adds: "No State may use coercive measures of an economic or political nature . . . to force the sovereign will of another State."

It seems clear that the intent of Helms-Burton is precisely to intervene in the affairs of several OAS member states (inter alia) and to force their "sovereign will."[1] The United States can of course enact a law of this sort, but it will violate a treaty commitment in so doing.

SEYMOUR J. RUBIN†

TO THE CO-EDITORS IN CHIEF:

I was deeply surprised to read in the July 1996 issue of the *Journal* the Editorial Comment of Judith Hippler Bello on dispute settlement in the WTO (90 AJIL 416 (1996)). The view that WTO rules "are simply not 'binding' in the traditional sense," that the WTO is "essentially a confederation [?] of sovereign national governments" that "relies upon voluntary compliance," and that "[c]ompliance with the WTO . . . remains elective" (90 AJIL at 416–17) negates the common effort to transform the GATT's weak, predominantly power-oriented system of economic relations into a legally binding order, governed by an international organization (the WTO) and subject to a quasi-judicial dispute-settlement mechanism.

It is true that the spirit of the system is to seek a balance among the economic interests of the parties, but not in disregard of legal obligations freely entered into as a part of the deal. Mutual accommodation of interests has to be sought at the stage of consulta-

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[1] It might also be noted here that, on August 23, 1996, the Inter-American Juridical Committee, in response to a request for an opinion by the OAS General Assembly, unanimously approved its Resolution CJI/RES.II–14/96, to which was annexed the committee's opinion on the legality under international law of legislation "whose content is similar to that of the Helms-Burton Act." Focusing on the protection of property rights of nationals and the extraterritorial exercise of jurisdiction, the committee concluded that in these "significant areas . . . the bases and potential application of the legislation . . . are not in conformity with international law." OAS Doc. CJI/SO/II/doc.67/96, rev.5, at 6. The opinion is reprinted in 35 ILM 1322 (1996).

† Of the Board of Editors.

tions, through which most conflicts and disputes are indeed solved. This happens mostly at a stage preceding the establishment of a panel and possibly also while the proceeding is pending, not as a rule after it has been concluded.

After the conclusion of the proceeding, the recommendations or rulings of the WTO Dispute Settlement Body must be promptly complied with under Article 21 of the Dispute Settlement Understanding. Mutually acceptable compensation is mentioned in Article 22 as a *temporary* measure pending implementation.

The prompt compliance by the United States with the first decision of the Appellate Body in the *Gasoline* case hopefully points to a high level of respect by member governments toward the new dispute-settlement mechanism of the WTO.

GIORGIO SACERDOTI*

TO THE CO-EDITORS IN CHIEF:

In her Editorial Comment on WTO dispute settlement in the July issue (90 AJIL 416 (1996)), Mrs. Judith H. Bello clearly implies that, by entering into treaty commitments or otherwise assuming obligations under international law, a state *abandons* its sovereignty.[1] I believe that this way of thinking is mistaken and may lead to unfortunate results.

It is mistaken since, as was observed by the Permanent Court of International Justice in its 1923 Judgment in the *Wimbledon* case and confirmed in subsequent decisions, one should not see in "the conclusion of any Treaty by which a State undertakes to perform or refrain from performing a particular act an *abandonment* of its sovereignty" (emphasis added). The correct position, according to the Court, is quite the opposite: "the right of entering into international engagements is an *attribute* of State sovereignty" (emphasis added).[2]

The reason why the view to which I take exception may lead to unfortunate results is not far to seek: since treaty and other international undertakings are most useful means of international cooperation, that view provides valuable ammunition to right-wing extremists who oppose such cooperation and for whom the concept of sovereignty remains a handy instrument for promoting the jingoism that generates this opposition.

Finally, it seems to me that Mrs. Bello did not need to endorse that view in order to make the arguments she advances. Her analysis could well have been not in terms of *abandonment* of sovereignty but of *avoidance* of binding international commitments, a perfectly neutral and unobjectionable concept.

ROBERTO LAVALLE†

TO THE CO-EDITORS IN CHIEF:

The Note by Messrs. Robert Kushen and Kenneth J. Harris on surrender of fugitives to the ad hoc international criminal Tribunals (90 AJIL 510 (1996)) raises at least two serious points of contention. The first involves a "rule of non-inquiry" (*id.* at 514, 517–18) concerning foreseeable procedural deficiencies or persecution in fora of requesting states. The second involves a supposed inability of the United States to prosecute war crimes of foreign and/or civilian perpetrators (*id.* at 515 & n.18).

According to the authors, common Articles 1, paragraphs 2 of the executive Agreements with the ad hoc Tribunals, which attempt to preclude "additional conditions or

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[1] See, in particular, the last two sentences of the penultimate paragraph on page 417 and the first and last sentences of the penultimate paragraph on page 418.

[2] S.S. Wimbledon (Merits), 1923 PCIJ (ser. A) No. 1, at 25 (Aug. 17). *See also* Exchange of Greek and Turkish Populations, 1925 PCIJ (ser. B) No. 10, at 21 (Advisory Opinion of Feb. 21); Jurisdiction of the European Commission of the Danube between Galatz and Braila, 1927 PCIJ (ser. B) No. 14, at 36 (Advisory Opinion of Dec. 8).

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