Which dignity and power seems to you greater, that of remitting sins, or that of divid-
ing up fields? There is no comparison.¹

According to a survey published in 2001, and things will have declined since then, lawyers formed only 16 per cent of the top 100 public intellectuals in the United States.² Of the 16, one is dead, one is a Supreme Court Justice, one is a judge and author of the survey, two are converts to law from other disciplines, and so there only remains 11, a cricket team, of well known if not necessarily reputable legal academics. Worse, however, is to come. None of the 11 public intellectual legal scholars is an international lawyer. Let's put this directly. The legal discipline that is most obviously concerned with affairs of state, with highly visible international incidents, with the

¹) Edmund Richer, De Ecclesiastica et Politica Potestate (1612) at 47 [... praedia dividendi].
²) Richard Posner, Public Intellectuals: A Study in Decline (2001) at 212, Table 5.4.
great public discourses of war and peace, from crimes against humanity to demarcation of territorial boundaries has seemingly vacated the most visible forums of the public sphere.

There are numerous possible reasons for the paradox. International lawyers exist in a tenuous twilight zone between academic homelessness and practical professional insecurity. They tend to peddle a variant form of positive law where it is least plausible, most needed and most unwelcome, and perhaps for that reason a certain professional discretion, a behind the scenes tact quiets those who are consulting with ministries or government offices. Those who are left out of the administrative burlesque of vehement denial and orotund self-justification are generally viewed either as maverick or simply esoteric in their political convictions and scholarly expressions. They are either silent or silenced, covert political operators or marginalized academics.

More than that, the political and legal trend within the upper echelons of the United States administration has moved temporarily at least in the direction of fervent unilateralism in international affairs. There is significant and vocal opposition to signing treaties, to signing on to the International Criminal Court, to observing United Nations protocol, and to recognizing the relevance of law in relation to combat or internment of suspected enemy operatives. There is resistance to even engaging in discussion of international commitments and collective bargaining over protocols and rules of war. There is even high-level hostility to the citation of judicial opinions from other common law jurisdictions. In such a context, under the political pall of isolationism, it is also possible to imagine that international lawyers, whose discipline has always seemed to be a rather precarious juridical enterprise, feel threatened and perhaps safest away from the limelight of public pronouncements. The punditry and pontification that Posner’s rather erratic study of intellectuals suggests is the hallmark of the scholar who strays into the public sphere would likely damage whatever hopes of influence or political employment the international lawyer still harbors.

It is into this climate of existential timidity, political opportunism and scholarly apathy that Anthony Carty throws his latest and most systematic treatise on the woeful circumstances and arid substance of international law scholarship. Following on from, indeed taking up the challenge of the last pages of his earlier study, now twenty two years old, *The Decay of International Law?*, Carty here turns to address the philosophical possibili-