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The Principles of International Law

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BOOK REVIEWS

The Principles of International Law. By T. J. LAWRENCE. Seventh Edition. Revised by Percy H. Winfield. New York: D. C. Heath & Co. 1923. pp. xix, 766.

The seventh edition of this book was prepared and published after the death of Dr. Lawrence. The new matter contained in this edition is entirely the result of the work of Dr. Winfield. The purpose of this publication, as disclosed by the preface to the first edition written by the original author, to use his own words, was "to trace the development of International Law in such a way as to show on the one hand its relation to a few great ethical principles, and on the other its dependence upon the hard facts of history." The book was intended, apparently, for students, but is also a very readable treatise for persons who are interested in the subject matter.

Dr. Lawrence was a teacher and lecturer on International Law, both in the United States and in England, having for some years been professor in the University of Chicago. The book itself follows the conventional method of presenting the subject, being divided into four parts. Part I, dealing with the Nature and History of International Law; Part II, with the Law of Peace; Part III, with the Law of War, and Part IV, with the Law of Neutrality.

The author has the same difficulty all writers on the subject have had, and still have, to give a satisfactory definition of the subject under discussion. He finally reached the conclusion that the best available definition of International Law is "the rules which determine the conduct of the general body of civilized states in their mutual dealings." In other words, International Law is a rule of conduct between nations. Municipal law may be defined as an enforceable rule of conduct among individuals and it will be noticed at once that a definition of international Law necessarily omits the word "enforceable." This is a necessary omission because Municipal Law is the result of direct legislation, often limited or extended by judicial interpretation, while no such source of International Law exists because there is no international legislature. Law, as a rule of conduct, is innocuous unless somewhere some *power* exists that can compel obedience and no such power exists with reference to the Law of Nations.

In describing the source of International Law the author enumerates five of them: namely, (1) The works of great publicists; (2) Treaties; (3) Decisions of prize-courts, international conferences, and arbitral tribunals; (4) State papers other than treaties; (5) Instructions issued by states for the guidance of their own officers and tribunals. From the enumeration of these sources, and the enumeration is correct, it becomes at once apparent that even the elementary principles of International Law are rather indefinite and uncertain and that the enforcement of them must depend on the voluntary compliance of the civilized Nations of the world. This situation opens the door wide for interesting speculations and discussions, but closes such door tightly as to enforcement of these principles against a nation which does not feel inclined to be bound by them.

All, or almost all, of the new matter contained in this 1923 edition of the book is concerned with the League of Nations of which proposition Dr. Lawrence was an enthusiastic and able advocate and, apparently, the reviser is equally enthusiastic on this subject. The text on this subject, in addition to analyzing and

giving the various provisions of the Covenant of the League, is mostly devoted to arguments in favor of the adoption, and subsequent trial, of this "means of preventing unnecessary war and the promotion of international social and economic co-operation." The arguments presenting the viewpoint of the writer are quite cogent as far as the theoretical aspect thereof is concerned. The remedy suggested as to a recalcitrant nation belonging to the league and violating its covenants, is found in Article 16 of the Covenant which provides for what amounts to a boycott of the offending nation by all the other nations, members of the league, and the author reaches the satisfactory, to him, conclusion that "severance of all trade and financial relations and all intercourse with the offender must be for most modern states as deadly as defeat in the field and this excommunication, be it noted, is possible without firing a gun or mobilizing a soldier." In other words, boycotting is to take the place of war as an instrument of enforcing the provisions of International Law. Possibly this is a sufficient "power" to make the provisions of the Law of Nations enforceable and effective. This may be true in case the offending nation is a small one because a boycott would be, in such case, fatal to its existence but it is more than doubtful if it would be effective in case the offending nation was a large and powerful one, which could very successfully resist and overcome any boycott other nations might inaugurate against it.

In the course of his argument the reviser makes the following statement: "The gravest objection to it is that it is a League of many Nations, but not of all Nations, and it is particularly unfortunate that the United States did not become a member. Political and constitutional reasons make its absence intelligible, but none the less regrettable."

The text also contains a quite detailed description of the establishment of the "Permanent Court of International Justice" established in 1921. This description contains the manner of the creation of the court, its various officials and the procedure to be followed.

The student or reader of this book must exercise some care to distinguish the text that was written by Dr. Lawrence and that which was written by the reviser. An attempt is made to make the exercise of this care easier by the fact that the new matter written by Dr. Winfield is enclosed in brackets, but as these bracketed paragraphs occur almost anywhere in the text, it is very easy to overlook them. While this is not a matter of very great importance yet, generally, students and readers would like to know whether they are reading the original author or the reviser.

On the whole, this latest exposition of International Law is a very excellent work, especially as a history and accurate recital of diplomatic correspondences that have been crystallized into principles of the Law of Nations. It is well written, logically arranged, easily understandable and exceedingly interesting to the novice in International Law as well as to the expert in that subject.

A. C. UMBREIT.

The Reasonableness of the Law. By C. W. BACON and F. S. MORSE with an Introduction by J. A. Woodburn. New York: G. P. Putnam's Sons. 1924. pp. xii, 400.

This book is unique. Its main purpose is to show that the law is consistent in its principles, but that its application varies with the needs of society as they vary with conditions. It is also referred to in the introduction as a text-book for law students. Its scope is wide, including constitutional, common, and statute