

This work originated as far back as 1880,⁶ but due to a series of mishaps and the outbreak of the War, the manuscript was not brought to date and published until 1930. It is the first in a series of volumes which the publisher contemplates on various portions of American law. This American series is itself part of a more comprehensive series entitled *Rechtsverfolgung im Internationalen Verkehr*, of which a considerable number of volumes dealing with the law of practically all the European countries has already been published. Its purpose, as illustrated by the characteristics of this volume, is a statement of the law rather than a more concentrated analytical study such as those attempted by Lambert in the publications of his *Institut de Droit Comparé*⁷ at Lyon or by Levy-Ullmann in the series published under the auspices of the University of Paris.⁸

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COURS DE DROIT INTERNATIONAL. By Dionisio Anzilotti. French translation from the 3d Italian ed. by Gilbert Gidel. Paris: Recueil Sirey. 1929. Pp. xii, 535.

The notable work of Judge Anzilotti of the Permanent Court of International Justice, first published as a course of lectures during his professorship at Rome some eighteen years ago, is now made available to a larger audience in a French translation by Professor Gidel of the University of Paris.¹

The volume under review is only the first of what is expected to be a three-volume work. It constitutes an introduction to the system, consisting of a discussion of the underlying conceptions and theories of international law. While not concerned with the discussion of many concrete cases, and though practically devoid of footnotes, the book nevertheless covers in a critical way some of the principal problems of theory which have agitated legal scholarship in the field for the past generation. It is partial to the German-Austrian school of thought. The author assumes a positivist, rather than a philosophical, approach, and for that reason the work is likely to make an appeal to the American reader. Though discussing theory in the main, it is informed at all times by a practical sense of realities and thus does not become pedantic.

The first chapter on the history and literature of international law is useful, though the literature is not critically selected, as it is later on in the bibliographic note at the beginning of each topic. Valuable and poor books appear in indiscriminate juxtaposition.²

The introductory part consists of five chapters: the conception of international law, international law and municipal law, the sources of international law, the limits of effectiveness of international legal rules, and the coordination, interpretation, and application of such rules. The best of these contri-

⁶ P. v.

⁷ See Book Review (1924) 37 HARV. L. REV. 1145.

⁸ See Book Reviews (1928) 42 HARV. L. REV. 144; (1931) 31 COL. L. REV. 1062.

¹ The work has since been published also in a German edition translated by Cornelia Bruns and Dr. Karl Schmid. *LEHRBUCH DES VÖLKERRECHTS* (1929).

² Hall, not Sheldon Ames (p. 27) is the author of the work of which Higgins has published an 8th edition. *HALL, A TREATISE ON INTERNATIONAL LAW* (8th ed. by A. Pearce Higgins, 1924).

butions relates to the author's specialty on the relation between international law and municipal law, which, with Triepel, he made a fundamental subject. While indicating that municipal law can not violate international law in the long run and that the two systems are complementary, he makes no reference to the many illustrations afforded by American practice and pointed out in American literature, which demonstrate that the Secretary of State is the societal agent of the American people for giving effect to international law when other agents fail. This is illustrated in the effort to draft aliens, to exercise extraterritorial jurisdiction against rum runners and fishing vessels, and so forth. On the other hand, in dealing with the responsibility of states for illegal acts, the reviewer is unacquainted with the purported decisions of American courts which nullified, as contrary to international law, California laws prohibiting the employment of Chinese citizens on public works.³ Nor did President Roosevelt, it is believed, institute an action in the United States Supreme Court to declare void the San Francisco (not "California") School Ordinance of 1906.⁴ The *Zamora*⁵ related only to prerogative Orders-in-Council and did not undertake to decide that the prize court would not be bound by general Orders-in-Council or would not give effect to them as against international law. The decision was unimportant and had no wide effect, but was successfully used as political propaganda.

The chapter on the coordination, interpretation, and application of international legal rules is confined to an analysis of the sources of law provided for the Permanent Court of International Justice in Article 38 of the Statute,⁶ which gave so much unexpected and, it is believed, unnecessary trouble, because not of practical importance, to the Codification Conference of 1930 at The Hague. Equity as a source both for the proper extension and application of international law and as a means of departing from it deserves, perhaps, fuller treatment than it receives. The reviewer had supposed that the Mixed Arbitral Tribunals were properly to be considered international tribunals, even though created by treaty among the contracting parties. But every decision of such an international tribunal is by no means international law, as, for example, where the tribunal sits in review of municipal law or where by the Protocol, as in the Mexican-United States Claims Commission of 1926, it is privileged to disregard the local remedy rule.

After the introduction comes what may be called the "General Part" or general theories of international law, covering the remaining 400 pages, and dealing in three chapters with "subjects," "organs," and "legal facts" of international law. Among "subjects" the author deals with the various types and forms of states, especially with their recognition. Much of the discussion on legal personality seems to the reviewer unfruitful. The battle of the major premises is interminable and sterile; the author considers the various theories and wisely refrains from dogmatic partisanship. Among unions of states the British Empire receives a special section, from which, however, there seems to be omitted the developments of the 1926 Imperial Conference, as well as the fact that both Canada and Ireland had diplomatic representation in Washington for some years before 1927, the date of the 3d Italian edition. The chapter on "legal facts" deals with the manifestation

³ P. 478.

⁴ *Ibid.*

⁵ P. 62.

⁶ P. 102.

of state "will," including unilateral and bilateral acts (largely treaties) and closes with an important section on acts which by international (not municipal) law are illegal. This is one of the author's specialties. He dismisses lightly the polemics on fault and risk as the basis of international responsibility, and supports the obvious conclusion that the state is responsible—that is, obliged to make reparation—for a breach of international law. That concept implies a myriad of rules. But the author is careful to point out⁷ the fundamental distinction between municipal responsibility, involving the relation between the injured alien and the local state, and international responsibility, involving the relation between two states and arising, as a rule, only after there has been a denial of justice in the municipal forum.

The work is one of the most important of Continental treatises. It deserves an early English translation, which might well be supplied with an index.

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BOOK NOTES

AERONAUTICAL LAW. By W. Jefferson Davis. Los Angeles: Parker Stone & Baird Co. 1930. Pp. xxxviii, 541. \$10.00.

This book, by a former member of the American Bar Association's committee on aeronautical law, brings together under one cover much interesting and valuable material. Part I discusses the scope of federal and state control of the air. The Air Commerce Act of 1926, the Regulations of the Secretary of Commerce enacted thereunder, and the Uniform State Law for Aeronautics are stated and commented upon. The author takes occasion to express his strong objection to Section 5 of the latter Act which imposed upon the owner absolute liability for harm accidentally caused to persons or property on the surface of land by the operation of aircraft. He points out that this provision of the Uniform Act was modeled on the Connecticut statute of 1911, which statute has since been amended, as has the Massachusetts Act, so as to impose liability only where the aviator is guilty of negligence. Just why the present Connecticut rule is preferred to the former one is not so clear. May it not be that at the present time the risks of aviation are so great that sound policy requires the imposition of an insurer's liability? The basis of liability to passengers is, of course, quite a different matter. Part II of this work discusses the ownership, operation and control of airports, and here the author shows the great need for uniform regulations. The remainder of the text deals with the regulation of aircraft carriers, questions of liability and insurance, international agreements and federal and state regulations relating to Air Navigation.

THE HAGUE RULES EXPLAINED, BEING THE CARRIAGE OF GOODS BY SEA ACT, 1924. By Sanford D. Cole. Third edition. London: Effingham Wilson. 1930. Pp. xiv, 158. 6/.

This edition of Mr. Cole's annotation of the Carriage of Goods by Sea Act, 1924, the schedule of which contains a revision of the Hague Rules of 1921,

⁷ Pp. 519-20.