

law, but it is difficult to find in such exercises of the treaty-making power any theoretical inconsistency with the doctrine that individuals are not in their own right subjects of international law. Dr. Lauterpacht would doubtless reply to this argument that in these cases the treaty provisions in question were vague and the court could never have reached the conclusion it did if it had considered that general international law was hostile to the principles which they seem to sanction. While sound, practically, this answer does not meet the theoretical point.

In this book the reader will find a useful guide to the court's opinions bearing on such important topics as the interpretation of treaties, especially the rôle of *travaux préparatoires*,⁷ *rebus sic stantibus*,⁸ abuse of rights,⁹ consent to jurisdiction,¹⁰ verbal agreements,¹¹ *res judicata*,¹² general principles of law,¹³ estoppel,¹⁴ and domestic questions.¹⁵

The author presents an interesting discussion of the meaning of article 59 of the Court Statute with reference to *stare decisis*,¹⁶ and of the alleged difference between Anglo-American and Continental approaches to legal problems.¹⁷

National, as well as international, jurists will find the book stimulating to thought and students of international organization will be convinced that, apart from its important function of ending litigation, the court, while displaying judicial caution, has served a useful purpose in developing international law, particularly in applying criteria of interpretation, calculated to give their intended effectiveness to international agreements and institutions.

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The Ohio Poor Law and Its Administration. By Aileen Elizabeth Kennedy. Appendixes with Selected Decisions of the Ohio Supreme Court, edited by Sophonisba P. Breckinridge. Chicago: The University of Chicago Press. 1934. Pp. x, 233. \$2.00.

The vigorous recommendation of the Committee on Economic Security that the States replace their "ancient, out-moded poor laws" and their traditional poor law administrations with modernized public assistance laws and efficient, centralized welfare authorities makes this volume especially timely. It has taken an economic catastrophe to bring to general attention the fact that the legislation under which our states administer public assistance to destitute persons is, except as far as the emergency provisions of the Federal Emergency Relief Administration have made temporary changes, essentially the poor law of Elizabethan England, written for a parochial, semi-feudal society and entirely unadapted either to our present day industrial and governmental organization or to our democratic social philosophy.

The first half of this book consists of a historical survey of the legislation, the Supreme Court decisions, and the Attorney General's opinions involving the public support of the poor in Ohio, from territorial days to 1934. The relationship of the early Ohio legislative enactments to the colonial poor laws of Pennsylvania and other eastern states and the influence of the English poor laws are indicated. The legislative and judicial attempts to adjust the original laws to an Ohio which was changing from a wilderness of pioneers to a state which combines metropolitan industrial areas

⁷ P. 35. ⁹ P. 53. ¹¹ P. 61. ¹³ P. 82. ¹⁵ P. 85. ¹⁷ P. 40.

⁸ P. 43. ¹⁰ P. 57. ¹² P. 78. ¹⁴ P. 83. ¹⁶ Pp. 5, 7.

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and rural farming communities are briefly traced. Particular attention is devoted to the connection between the law of domestic relations and the poor law, to the influence of the Attorney General in the interpretation of legislation and to the "emergency" changes since 1931. The second half of the book is made up of source material; Dr. Breckinridge has selected and edited a number of Ohio Supreme Court decisions and Attorney General's Opinions to illustrate and amplify the historical development set forth by Miss Kennedy. The appendix also includes the present poor law provisions, together with a chronological list of legislation relating to the poor, and a list of judicial decisions under the poor law.

The legislative and judicial development traced by this study illustrates a situation which has been common to almost all our states. The principles of the famous English Poor Law of 1601 (which was itself largely a codification of earlier enactments) have become anachronistically fixed in Ohio law. Local responsibility for the care of the destitute has meant the allocation of the public assistance functions to such small units of local government as the township, with no effective supervision by the state. This has resulted in wide discrepancies between the standards of adjacent governmental units, inefficient and sometimes corrupt administration, and cruel and antiquated methods of humiliating persons in need of assistance. Local responsibility for administration has been coupled with local responsibility for raising revenues for public aid; thus the small township where the need is greatest has been expected to provide for this need out of its own scanty resources, without assistance from its more fortunate neighbors or from the larger governmental unit. The corollary of the principle of local responsibility has been that of legal settlement as a prerequisite to eligibility for assistance; as long as the revenues for the relief function are raised by local units, local officials will be unwilling to use these funds to assist persons who have not met the statutory residence requirements.

Of particular interest to the legal profession is the multiplicity of unnecessary litigation which has grown out of the Ohio poor law. As Dean Edith Abbott states in the introductory note to this volume, ". . . these twin principles of settlement and local responsibility have for more than a century dragged unfortunate men, women and children through prolonged processes of litigation ending in the State Supreme Court." The Ohio reports are full of expensive lawsuits fought to decide whether Township A or Township B, or County A or County B was to support some destitute person; the bench and the bar have spent much time and great sums of public money to ascertain, not how or where a person who needed assistance could best be cared for, but which local unit was to assume the responsibility. There are many instances of how adults or children have been shuttled back and forth between townships or counties, each seeking to avoid the burden, and a complex tangle of court decisions has been developed in the attempt to interpret technical statutory provisions concerning settlement and allied subjects.

Miss Kennedy's chapter dealing with the opinions of the Ohio Attorney General is a reminder of the increasing importance, in the field of administrative law, of the advice which this officer provides for local officials. Many of the questions concerning poor law administration which formerly might have been the subject of litigation have been submitted to the Attorney General, and his opinions have been followed. While this process undoubtedly has been less expensive and less dilatory than the judicial process, there is little evidence that the Attorney General has been aware of the social

and individual consequences of these interpretations and opinions to any greater extent than the courts have been.

Miss Kennedy has compiled her material with admirable clarity and conciseness. She has limited herself largely to the formal legislative and judicial history, and it is only by reading between the lines that the reader is able to catch a glimpse of the working of the poor law in terms of actual human suffering. Fortunately, the decisions and opinions which Dr. Breckinridge has selected and edited provide many illustrations of how cruelly the complex legal entanglements have dealt with destitute persons. The volume might have been enriched, however, if Miss Kennedy had seen fit to utilize some of the excellent material concerning the administration of the Ohio poor laws compiled by the Ohio Commission on Unemployment Insurance. A noteworthy omission is the failure to include a definite statement which would inform the reader of the actual number of small governmental units and local officials who are concerned with administration of these laws. The Commission on Unemployment Insurance discovered that there were, in 1931, 1535 different governmental subdivisions, and more than 6000 different local officials responsible for the administration of some form of public assistance, excluding institutions, under the existing Ohio statutes.

At the present writing in more than a dozen states official commissions are studying questions concerning economic security and public provision for the relief of destitution. Inevitably each of these bodies seems to be arriving at the realization of the fact that a revision of the poor laws is basic in any attempt to provide this much sought security, for, though unemployment insurance and similar measures may form a first line of defense, when the benefits of these are exhausted, the poor law is the last bulwark of protection. Then too, all the insurance and pension proposals leave certain groups outside the pale of their protection, and for these persons there is no provision except that supplied by this fundamental and ancient relief legislation. Miss Kennedy's study will undoubtedly be valuable in indicating the weakness and futility of the type of legislation now common to many of our states and in illustrating difficulties which modern enactments may remedy.

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