

extreme? Modern statutes are drafted in such general terms and lawyers are so ingenious in statutory interpretations that a stronger curb than the mere self-restraint of a general counsel seems desirable. This phase of the problem deserves greater attention from lawyers.

There should be complete agreement, however, with the author's final conclusion that the ultimate safeguard against administrative abuses is the selection of competent and public-spirited administrative personnel. Despite contrary legal or political theories, we live today under a government of men, more than under the rule of law.

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The Law of Treaties, British Practice and Opinion. By Arnold Duncan McNair. New York: Columbia University Press, 1938. Pp. xxix, 578. \$7.50.

This important volume presents to the student hitherto unavailable materials from the British Foreign Office, principally the opinion of the law officers of the Crown on the subject of treaties.

Students of international law have to an increasing extent realized that the advance of international law, both as a body of doctrine and as an influence on world affairs, depends upon ready access to the sources. It is easy for both the layman and the lawyer to assume that international law does not exist unless confronted by the mass of practical references to it by foreign offices, courts, and other official agencies of all governments. The reticence of foreign offices, as well as the linguistic variety and scattered official publication of relevant material, renders the task of assembling the sources on a given controversy, principle or topic more difficult for the international lawyer than for the national lawyer. John Bassett Moore's well known digests of international arbitration and international law were culled largely from United States Department of State archives and made use of the earlier digest by Francis Wharton. These volumes were pioneering ventures, the value of which was immediately recognized by the profession. Two volumes have appeared from a somewhat similar compilation of British Foreign Office materials by Professor H. A. Smith of the University of London. Collections of adjudicated cases bearing upon international law have become common since James Brown Scott's publication in 1904. The collections by Pitt Cobbett, Bentwich, Stowell, Evans, Hudson, Fenwick, Dickinson, Briggs and others are designed primarily for classroom use, but, since the World War, more exhaustive publication of such materials has been undertaken, particularly in the *Annual Digest of International Law Cases* edited by McNair and Lauterpacht in England, and the *Fontes Juris Gentium*, which includes diplomatic as well as judicial materials, edited by Victor Bruns in Germany. National governments have greatly increased their publication of materials bearing upon international law since the World War, the League of Nations and the Permanent Court of International Justice publish an extensive body of materials, and such private institutions as the Carnegie Endowment for International Peace have contributed, not only to the publication of collections of official materials, but also to the republication of the classical treatises on international law.

The dynamic character of the modern world, however, has turned the attention of international jurists to treaties and legislation, even more than to custom, precedent,

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and juristic analysis, as sources of international law. The League of Nations Treaty Series, Judge Manley O. Hudson's collection of multipartite treaties since the World War under the title *International Legislation*, and the collection and translation of national legislation on particular subjects of international law such as nationality, diplomatic and consular officers, extradition, piracy, neutrality in connection with the Research in International Law organized by Judge Hudson have opened this body of material to the student and lawyer.

The present volume fits into this general picture of an extensive publication of international law sources. It arose from a project formulated by the Department of Public Law and Jurisprudence at Columbia University to inquire into the manner in which the rules of international law are actually interpreted and applied by different foreign offices. It was realized that foreign offices would be reluctant to co-operate in this work except with nationals of their own country of recognized ability and discretion. Consequently the investigation was nationally organized and Arnold D. McNair, recently Professor of International Law at Cambridge, now Vice-Chancellor of Liverpool University, was invited to undertake the study for England.

While warning that the study presents only two of the many sources to which the advisers of the British Crown would turn before giving legal advice on a problem connected with treaties, namely the opinions of their predecessors and the decisions of British courts, these are doubtless the most important materials which would be used for the purpose. The volume fulfills its design "to state the practice of the United Kingdom in the matter of treaties, their conclusion, their interpretation, the scope of their operation, their termination and modification, and the law which is relevant to these topics so far as it can be gathered from United Kingdom sources."¹ For the international lawyer, by its more exhaustive examination of the sources from one country, the volume supplements the broader range of materials utilized by the draft convention and commentary on the law of treaties prepared by the late Professor James W. Garner in connection with the Harvard Research in International Law.

In the present volume much light is thrown on such current topics as reservations to treaties; effect of compulsion, illegality of object and change of conditions on validity; third states and treaties; termination and revision of treaties. The law officers of the British Crown have in the past century given advice on a wide variety of treaty problems. Professor McNair has found, after diligent search, over two hundred such opinions. He has brought this material together, supplemented it by some materials from diplomatic correspondence and judicial decisions and added his own illuminating commentary. The author's conclusions are distinctly stated, but with the warning that "these views are in no sense official except to the extent that the documents and extracts quoted show the legal advice given, or the action taken, on the incidents described, and it by no means follows that in all cases the same view would be held in the future."²

The opinions of the law offices have not been generally available to the public in the past, perhaps partly because the government did not always follow the advice which it received. But whether it did or not, and on this topic Professor McNair disclaims any authority, it is important for the international jurist to know the kind of advice given and the way in which it was presented. He will perhaps be disappointed

¹ P. vii.

² P. vii.

that the opinions are often very brief—designed to be read by busy ministers more interested in conclusions than in the sources from which they were derived. They however always indicate the general principles which the law officers had in mind and state distinctly the precise facts on which advice was given. Dr. McNair has in general followed the commendable practice of giving the document in full with all the flavor which forms of address convey to the reader.

The index and lists of cases, opinions, and treaties make the contents of the book readily available, while the classification is clear and covers the topics and treaties comprehensively, although on some problems the author recognizes that his materials were not as full as he would have liked. It is to be hoped that the Columbia University project will be continued for other countries and for other topics of international law.

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The Administration of Justice from Homer to Aristotle. Vol. II. By Robert J. Bonner and Gertrude Smith. Chicago: University of Chicago Press, 1938. Pp. vii, 319. \$3.50.

In the first volume of this work, published in 1930, the authors treated the courts and court organization of ancient Greece. This second volume is devoted to practice and procedure, without attempting to describe in detail the individual types of actions or the course of the trial from summons to verdict.

An opening introduction summarily treats of the various types of action, civil and criminal. The first chapter deals with the part that the parties themselves play in a suit, the place of advocates, and an excursion on public prosecutors in criminal actions. This leads to a study of sycophancy, the "profession" of prosecution for the financial reward resulting from the share in fines, confiscations, etc., and the blackmail that accompanied it, the whole minutely discussed with ample extracts, generally in translation, from the original sources. Chapters on special pleas (*diamartyria* and *paragraphe*) and arbitration follow. In chapter VI the authors discuss the availability and competency of witnesses and testimony, while the following chapter on "oaths" most exhaustively treats all types of oaths offered during the course of a trial, with special emphasis on compurgation. This leads to a chapter on homicide, somewhat out of place in a general study of procedure, especially in view of the fact that the authors had dealt with the topic in volume I. Appellate procedure and execution of judgments form the subject matter of chapters IX and X, while the work concludes with a discussion of the merits and demerits of the Athenian judicial system.

The reviewer has outlined the contents of the volume at some length, because in the first place the title does not adequately indicate the scope of the book, but secondly because the summary clearly demonstrates the lack of organization of the materials as a whole. The mass of information, primary source materials as well as critical discussion of the views of modern scholars, can be but inadequately utilized as a reference work on the basis of the limited subject index and the indices of passages cited. The crux of the matter is that there never has been a systematic treatment of Greek law, let alone of Greek procedure. The answer will be made that the Greeks never developed such a system, but the rebuttal can be offered that neither did the ancient Romans. It was only in medieval times and later under the influence of

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