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The Law of Nations: Cases, Documents and Notes

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THE LAW OF NATIONS: CASES, DOCUMENTS AND NOTES. Edited by Herbert W. Briggs. New York. F. S. Crofts & Company, 1938. Pp. xxix, 984.

In the light of recent and contemporary international relations another book on international law seems to be an unnecessary addition to an already extensive bibliography on this subject. In utter discouragement one is often inclined to follow the line of least resistance and accept the philosophy that what we call international law is nothing more than international morality of which apparently there is very little in existence today.

Yet, there is a brighter side to the picture. Of the more than 25,000 treaties of all kinds in existence the overwhelming majority are working satisfactorily to all parties concerned. As Professor Borchard of Yale says, it is not news when international law is observed. The violation of an especially important treaty, however, is heralded far and wide.

Although it is still both inadequate and, in many respects, indefinite, the body of international law has grown rapidly during the last century and a half. And the fact that international law is violated upon occasion does not prove that it is nonexistent just as we do not admit that temporary success in resistance to a national law means that the law does not exist.

Professor Briggs' book with its case method approach is, in fact, important to the further study of international law. It comprises 150 cases, selected not only from the traditional international tribunals such as the Permanent Court of International Justice and the Hague Court of Arbitration but from many national courts. In addition, since the student needs more than cases in the study of the law of nations, the editor has added a series of ninety notes which clarify the source materials and add important abstracts of other cases and writings on the same general subject. These notes will be invaluable to the college student who uses this book as a text. Last but not least there are fifty documents of an international character, treaties, draft treaties, exchange of notes, national legislation, League of Nations documents, *etc.*, which show the form which international law may take, and aid in understanding the cases which are based upon these sources.

The book runs to almost one thousand pages of fairly fine print, and is divided into eighteen chapters covering among other topics such matters as recognition of states, nationality, extraterri-

toriality, extradition, aliens, law of treaties, state responsibility and international claims, and the status of persons and property in time of war.

Teachers of international law will find that this book will compare favorably with the casebooks of Professors Manley O. Hudson and Edwin D. Dickinson, which have gained wide acceptance by their scholarly nature and editorial perfection.

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THE MIND OF THE JUROR. By Albert S. Osborne. Albany, N. Y. Boyd Printing Company, 1937. Pp. 239.

On opening this book one anticipates some psychological analysis of the actual probative effect of certain types of evidence upon the thinking process of the average juror based upon the author's many and varied courtroom experiences as a professional expert witness. It is somewhat of a surprise to find, instead, a sweeping indictment of the trial scene and its principal actors. The subtitle correctly states the nature of the contents, "The Layman's View of the Law", and the necessarily superficial treatment of certain difficult and profound questions is not cured by the citation of occasional case authorities.

The author's justifiable faith in the truth of his own testimony has led him into the belief that one side of every legal controversy must be definitely in the wrong on the facts. "In every lawsuit one lawyer seeks to prevent the facts from being shown."¹ Memory and observation are inefficient at best, and conflicting testimony does not indicate absolutely the presence of falsehood. Then, too, many cases involve not determination of the occurrence or non-occurrence of a given fact, but rather the application by the jury of some standard such as reasonable care as to which there is no pre-trial right and wrong.

On the theory that scientific inquiry is always possible, as it is with handwriting questions, Mr. Osborne criticizes the absurdly unscientific nature of the inquiry into the facts in the ordinary legal trial. Among the absurdities mentioned are weird phenomena such as exclusionary rules of evidence, cross-examination of honest

¹ Page 82.