

WORLD LEGAL ORDER, By Wallace McClure [1960 University of North Carolina Press. U.S. \$7.50 pp. xvi + 366 incl. index.]

This volume is Dr. McClure's second book. The first was *International Executive Agreements*, published in 1941. To this writing in the field of International Law Dr. McClure brings the experience of some thirty years of service in the United States Department of State. He is currently Consulting Director of the World Rule of Law Center at Duke University, in North Carolina; and this is the first of a projected series of publications expected to emanate from the Center.

The purpose of this work is stated in its subtitle "Possible Contributions by the People of the United States." The author has chosen to divide this volume into three parts. Had only Part III appeared, the message of the book would have been complete and it would have avoided the insupportable arguments of the first two parts. The basic theme of the book is that a "supranational" or international law which would govern the relations of nations is absolutely vital to the world and that the United States can contribute greatly to the development of world legal order. Part III advises the United States :

(1) To repeal, or refrain from pleading, its reservations to the compulsory jurisdiction of the World Court.

(2) To make full use of the World Court.

(3) To send the President as head of its delegation to the General Assembly of the United Nations. [This recommendation presaged the position more or less forced on the United States and other nations by the decision of the U.S.S.R. in reference to the 1960 session].

(4) To increase the effectiveness of its agencies of government which deal with United Nations affairs.

The arguments with which he supports these wholly salutary recommendations of Part III can scarcely give rise to quarrel. He describes the development of United

Nations doctrine and practices, the flexible manner in which it has met past crises. And he catalogues some of those instances in which the United States has shown less wholehearted support of the international organization than it might have done.

The weaknesses of the book, and they are serious indeed, are in Parts I and II. Here in support of his basic thesis he attempts to argue that the Constitution of the United States contemplated the supremacy of treaties over inconsistent acts of legislation, perhaps even of the Constitution itself, and that Supreme Court interpretations to the contrary are errors which the Supreme Court is capable of correcting. The evidence which he marshals to support the first part of this striking doctrine is altogether inadequate. Far too much space is devoted to a rather sterile repetition of what he feels the words ought to mean. And not infrequently the author succumbs to such fatuous remarks as, "The courts, moreover, naturally have a tendency toward the maintenance of law." (p. 68).

The fact of the matter is, apart from precedent too overwhelming to be lightly dismissed, the courts could be led into grievous situations if they departed from their rule of refusing to enforce a treaty provision specifically overruled by a subsequent act of the Congress. The author makes the point that the treaty-making power is vested in the President, with the concurrence of the Senate, and that the Congress has no competence in this area. But he ignores the fact that an Act of Congress expresses the will not only of the lower House, but also of the Senate, as well as of the President. While there is force to the argument that no nation should unilaterally abrogate its treaties, the author chooses to treat most casually the fact that the courts would invade the area of international politics with undoubtedly the most shocking results, if they endeavoured to give effect to treaty provisions which for reasons satisfactory to both houses of the legislature and the President should no longer be enforced. That the courts are not equipped to make these determinations of power politics, that they are the one branch not responsible to the electorate, that there may be occasions in which blindly giving effect unilaterally to a treaty may be preposterous are all lost in the author's otherwise commendable eagerness to support the proposition that all nations should honor their treaty obligations.