LAW AND POLITICS OF THE DANUBE. By Stephen Gorove. [The Hague: Martinus Nijhoff. xvi + 171 pp. D. fl. 20.75.]

THE JUSTICIABILITY OF INTERNATIONAL RIVER DISPUTES. By William W. Van Alstyne. [Durham, N. C.: World Rule of Law Center; World Rule of Law Booklet Series, No. 27. 1964. 34 pp. no price stated.]

THE LAW OF INTERNATIONAL WATERWAYS. By R. R. Baxter. [Cambridge, Mass.: Harvard University Press. 1964. x + 371 pp. U.S. $9.50; £3. 16s.]

THE MARITIME BOUNDARIES OF QUEENSLAND AND NEW SOUTH WALES. By R. D. Lumb. [St. Lucia: University of Queensland Press. 1964, 15 pp. 2s.]

Territorial issues are frequent sources of contention between States, which appear never to be satisfied with the boundaries that the law prescribes. Likewise, they often quarrel about the use of natural resources that such boundaries ordain that they share. Examples of such disputes can be found at present in almost each of the continents and they seem to relate increasingly to the use of water facilities.

Rivers frequently flow through the territory of more than one State or constitute the frontier between States. Whenever this occurs problems are bound to arise, and attempts have been made since the middle of the nineteenth century to seek an international river regime which is likely to control the use and reduce the conflicts. One of the earliest rivers to be internationalised by convention is the Danube and Professor Gorove's monograph is an interdisciplinary study of the *Law and Politics of the Danube*, almost exclusively since 1945, drawing attention to the rivalries between the Soviet Union and the United States culminating in the Belgrade Convention of 1948.

At United Nations meetings prior to 1948 the Soviet Union found herself and her satellites in the Eastern bloc in a constant minority and was therefore critical of the majority principle. At Belgrade, however, since the Conference took place before the split with Yugoslavia, the position was reversed. Here the Western powers found themselves faced with an automatic monolithic majority which seemed determined to get its own way on every issue. As a result a Protocol was adopted declaring null and void the prior international regulation of the Danube, and cancelling without compensation the obligations of both the International and European Danube Commissions. It made little practical difference that the Western powers announced their

refusal to recognise this new Convention as abrogating their rights under the former treaty. This refusal, because of the occupation of Germany, did keep Soviet influence from the German parts of the River.

After the Tito-Stalin split Yugoslavia constantly found herself in a minority of one, a situation that continued until the relaxation of antagonism with the Soviet Union in 1955. This coincided with a rapprochement between East and West consequent upon the 1954 Geneva Conference on Indo-China. From then on the Danube has again become more of a generally internationalised River.

The Soviet Union persistently rejects any proposals for compulsory international judicial settlement, and the same is true of the Danube regime. Other internationalised River schemes make provision for such settlement and Mr. Alstyne's contribution to the World Rule of Law Booklet Series is a study in the case method applied to *The Justicibility of International River Disputes.* He points out that international practice tends to support the rule applied by the Supreme Court of the United States in favour of equitable apportionment — a rule that is found in the Indus Treaty between India and Pakistan, but the attempted application of which in connection with the Jordan only serves to exacerbate Israel-Arab relations. In his view the principle 'is sufficiently coherent in its application to disputes involving economic interests in international rivers to render such controversies justiciable according to international law' — a view which was, however, rejected by many of those who debated the problem at the Hamburg Conference of the International Law Association.

Apart from international rivers, artificial canals joining arms of the high seas have provided material for experimentation in internationalisation. In the S. S. *Wimbledon,* in fact, the World Court took the line that the regulations concerning the Panama and Suez Canals, different though they were, sufficiently illustrated principles involved to amount to an international regime that could be applied to the Kiel Canal. The Egyptian nationalisation of the Suez Canal Company and the the new system applied to the Canal after the military operations of 1956, together with agitation in Panama for revision of the arrangements between that State and the United States concerning that Canal, have tended to focus attention on the problem of artificially created international waterways.

Professor Baxter's book is the latest and most comprehensive study on *The Law of International Waterways,* drawing attention to the fact that even though it is generally assumed that an international canal regime exists, the leading canals all fall under different regulatory systems. Suez was administered by a foreign dominated private company and is now operated by the territorial sovereign. Panama is operated by a foreign sovereign operating from an extraterritorial portion of the local State. The Kiel Canal which is still regulated in accordance with the terms of the Versailles Treaty is administered by the territorial sovereign, the Federal German Republic. The St. Lawrence Seaway is the subject of bilateral control, and Professor Baxter points out that there is no inherent reason why the example of internationalised rivers should not be followed, and International Commissions utilised.

One of the most interesting legal problems with regard to international canals to the passage of vessels in time of war. In so far as Suez, Panama and Kiel are concerned, the controlling documents are not over clear. Of most topical importance is Suez, for the United Arab Republic denies passage to Israeli vessels or the ships of other countries which have been trading or intend to trade with Israel, despite the armistice agreements, Security Council resolutions, and Egyptian condemnations of any Israeli attacks as warlike acts. The learned author points out that, traditionally, armistice agreements do not automatically terminate the right of visist and search — they do, however, inhibit seizures by way of prize. A large number of States, on the other hand, have taken a wider view of this particular armistice agreement as presaging the establishment of permanent peace in Palestine. Professor Baxter shows how in the Security Council it was made clear that the political implications of the dispute and the validity of Egypt's actions far outweighed the law. He argues that the Security Council resolution which called upon Egypt to cease and to return to observance of the law 'must be regarded, in all probability, as a legislative or law-

creating act, rather than a judicial or law-declaring one. As such he believes that Egypt was obliged to comply.

Although Professor Baxter constantly reiterates that each of the international canals depends upon its own regulatory documents, he believes that 'there is ample room for the view that interoceanic canals are already governed by a common body of law, which is the product of state practice, of treaties, and of adjudication. . . Having regard to the continuing importance of the subjection of these waterways to a regime founded on law, the codification of these rules would be a useful step in giving them greater precision and in securing general acceptance of the existing customary law.' With this in mind, the learned author has reduced the law into seven draft 'Articles on the Navigation of International Canals'. For this purpose, an interoceanic canal becomes international 'when it has been dedicated by treaty, unilateral declaration, or otherwise to use by ships of nations other than those of the State through the territory of which such a canal flows, and there has been substantial reliance on the dedication by the shipping of such nations.' Such canals are to be free and open to navigation on a basis of nondiscrimination by the ships of all nations, and passage of belligerent merchant or warships would not impair the neutrality of the coastal State. On the other hand, the territorial State may seize or exclude the merchant or war vessels of any State with which it is at war or in armed conflict, 'subject to the treaties and other international obligations of the State through the territory of which the international canal flows.' Presumably, therefore, Egypt would still be in breach of her obligations if she persisted in her activities against Israeli shipping.

Not only canals and rivers form part of State territory. Maritime States also enjoy national and territorial seas and sometimes problems arise over the demarcation of neighbouring areas. Dr. Lumb discusses the problem as it affects New South Wales and Queensland, which was separated from the former in 1859. This he does by a careful analysis of all the relevant documents and reaches a conclusion which he describes as undesirable from the point of view of Queensland. Any risk of recidivism is obviated by the fact that under section 123 of the Commonwealth Constitution alteration of state boundaries would require state and federal legislation, as well as referenda in the states affected.

The books reviewed here constitute a representative selection of some of the problems that arise in the law of international waterways, both internal and external.

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