

INTERNATIONAL FINANCING AND INVESTMENT. Edited by John F. McDaniels. [Dobbs Ferry, N.Y.: Oceana. 1964. xii + 738 pp. U.S. \$25.]

THE INTERNATIONAL MONETARY FUND. By Hans Aufricht. [London: Stevens; Library of World Affairs, No. 63. 1964. 126 pp. £1. 10s.]

One of the major problems of modern international relations lies in the adjustment of concepts of national sovereignty and the concomitant assertion of State dignity and possession of resources, with the need to protect foreign capital investment required by backward or under-developed territories to enable them to enjoy their natural resources to the full. Increasingly, new States have sought investment from abroad — in fact they have recently asserted that there is a duty upon established States to afford them investment and assistance — while at the same time indulging in nationalisation and expropriation programmes the effect of which is to frighten away foreign investors.

Various attempts have been made to try and discover means whereby foreign investors may feel their investments protected, while at the same time the country in which the investment is being made does not feel that its sovereignty is being infringed or its resources unduly exploited by aliens. *International Financing and Investment* is the record of a conference on 'Legal Problems of International Financing' held at Yale Law School in March 1962. The participants dealt with such matters as the monetary background of international financing, the title of the introductory paper by the Chairman of the Executive Board of the International Monetary Fund. In the same section, Professor Triffin considered the twilight of the gold standard and maintained that 'the time has come to substitute for our disorganized, nationalistic, and crumbling gold exchange standard a truly international monetary system, adjusted to the growing interdependence, not only monetary, but economic and political as well — not to say "atomic" — of the world in which we live, and that we still hope to bequeath intact to our children and grandchildren'. It is possible that de Gaulle's France has very different ideas, which would probably not be affected by Mr. Nicoletopoulos's views on currency convertibility under the Fund.

With the background thus set, the Conference dealt with the financing of economic development, considering among other things the role of the United States, of private enterprise in the 'Alliance for Progress' — which the *London Times* regards generally as having somewhat misfired, the Agency for International Development, European contributions to developing nations and the Inter-American Development Bank, which could easily form the model of a bank for Asia. In his paper on 'Some Considerations of Financing in Latin America, Mr. Parreno shows how far matters have changed since the beginning of the century by contributing a paper which makes no reference to the Calvo Clause or national treatment. There are also a number of papers on guarantees in equity and debt investments, export financing and portfolio investment in foreign securities, with particular attention to the problems involved under United States law.

It should not be thought that it is only in under-developed countries that international financing and investment is necessary. Even today, after a certain amount of rehabilitation has taken place, western Europe still figures among the areas in which foreign investment is desirable. Apart from considering the impact of the Coal and Steel Community, specific papers deal with local financing facilities in Belgium, France, the Netherlands, Switzerland and the Federal Republic of Germany.

As already indicated, foreign investors are going to hesitate before committing themselves unless there is some adequate means of protection and the last three papers deal with the settlement of disputes concerning international loans — and Dr. Domke indicates the 'whiplash' character of the United States reservation to its acceptance of jurisdiction under the Optional Clause of the Statute of the World Court; the provision of adequate remedies for the private lender — Mr. Everson feels that 'if the United States lender is to have the best chance of getting his money

back in event of default, counsel must not rest on the existence of judicial proceedings against the borrower, but must provide him with additional effective rights at the time the loan is negotiated' — but the government of a foreign borrower can easily render such additional rights ineffective; and finally Mr. Haight contributes a paper in favour of the choice of public international law as the applicable law in development contracts with foreign governments, and believes that this should be expressly stated in the contract itself.

The last 160 pages of *International Financing and Investment* comprise a bibliography on the entire subject and this to some extent makes the volume of more general value than it might be otherwise. Primarily, the papers are oriented to an American lending public and their legal advisers, although many of the problems discussed would arise regardless of the nationality of the lender. Of more general interest perhaps is the study of the legal bases, structure and functions of *The International Monetary Fund* contributed to the Library of World Affairs by the Fund's Counsellor. This is a detailed legal analysis in 77 pages of the powers of the Fund under its own Articles of Agreement, the Charter and the GATT, as reflected in those documents and in the practice of the Fund between 1944 and 1963. In order to give life to the analysis, Dr. Aufricht has provided appendices specifying the status of membership in the Fund and the quotas, as well as relevant documents covering such items as the governing arrangements on borrowing, on international liquidity and compensatory financing of export fluctuations.

Taken together, these two works comprise a most useful guide to the problems inherent in international financing investment and borrowing.