

INTERNATIONAL LAW — A TEXT. By H. B. Jacobini. [Homewood, Ill.: Dorsey Press. 1962. ix + 324 pp. price not stated.]

This little book is 'an attempt to develop a relatively brief text which is nevertheless comprehensive. It is recognized that in so doing some topics must be dealt with cryptically, but this seems better than to leave them untouched on the one hand, or to try to exhaust every topic on the other' (p.vii). There are obvious advantages in attempting to give an outline of everything that falls within the purview of a work on international law, but the reviewer cannot agree with Professor Jacobini that this outweighs the drawback of dealing with anything in a cryptic fashion, especially when insufficient attention is paid to the need of keeping political prejudices distinct from legal assertions.

Will it help the student to understand Statehood or sovereignty to read that Poland's 'relationship to the U.S.S.R. casts doubt upon the degree of sovereignty which it enjoys' (p. 45)? Similarly, is it not a little too cryptic to say that 'a famous document known as the Paris Peace Pact was signed which legally abolished war' (p. 15), without any further discussion or reference to the problem of self-defence? Again, in view of developments since 1945 it becomes rather one-sided to state that 'the underlying impressions persist, that Soviet principles of international law are inordinately opportunistic' (p. 27).

The attempt to achieve near-comprehensiveness leads to over-simplification. At one place (p. 59) we are told that 'in the face of impossibility of performance, or of a fundamental change of circumstances a state is generally absolved of its treaty responsibilities. This absolvment ... is known as the *clausula rebus sic stantibus*.' Later (pp. 141-3), a decision by the United States Court of Claims in 1887 and an opinion by the U.S. Attorney General in 1941 are cited to support this. This section of the text is rounded off: 'it is appropriate to quote Brierly's observation here that "There seems to be no recorded case in which its application has been admitted by both parties to a controversy, or in which it has been applied by an international tribunal."'

Another example of an over-simplification resulting in a comment that would lead a student into trouble if he quoted it without anything further, is the assertion that 'when an alien feels he has been wronged, he is usually . . . obliged to exhaust the local judicial remedies before making an attempt to secure aid from his home country. This principle is known as the Calvo Doctrine. When it is written into contracts with foreigners, as is often the practice, it is called the Calvo Clause' (p. 64). This is to equate the Calvo Doctrine with the local remedies rule and to ignore completely the national treatment elements in the Doctrine. Another Latin American doctrine which receives a somewhat strange interpretation is that named after Drago: 'It should be noted that the legal obligation to arbitrate disputes over contract debts is nearly an absolute; this is the enactment by treaty of a principle known as the Drago Doctrine. There is, however, the exception that if the debtor state will not arbitrate, other action may become justifiable' (p. 20).

Enough has been said to indicate that Dr. Jacobini's *International Law* would not be an adequate text for students taking an LL.B. degree in a Commonwealth university, but there are some comments which show a real appreciation of political issues and their impact on international law. Since the Geneva Conference on the Law of the Sea it may be somewhat outdated to say that political activities concerning the continental shelf met with 'little or no protest on the part of other nations' (p. 4), or that 'there are more states which adhere to the principle of the three mile limit than adhere to any other proposed limit' (p. 75). However, few will argue that the 'rules [of international law] must be politically acceptable' (p. 9), or that international law 'now embraces virtually the entire world, yet in broadening its scope it may well have weakened its superstructure at least along historical philosophical lines' (p. 37). Of topical interest in Malaysia is the statement that 'regardless of the legality of the war itself, the rules of warfare apply to hostile relationships generally' (p. 230). On the other hand, it goes a little far to describe the absorption of Czechoslovakia by Germany even 'loosely' as a war terminated

by subjugation (p. 234), and it is perhaps questionable whether, particularly in view of the attitude of the United States, 'a good case could be made for the view that these rules [relating to gas and bacteriological warfare] are binding in custom as well as by convention' (p. 259 n. 88).

Professor Jacobini's views on the international rule of law merit quotation and study by all students of international law: 'World government must become politically palatable before it can become a reality. ... If war is prevented it is not law which will do it, but rather the circumstances of politics' (pp.300, 301).

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