

THE EFFECT OF INDEPENDENCE ON TREATIES. International Law Association. [London: Stevens & Sons. 1965. xv + 391 pp.].

One of the more confused areas of international law is that of state succession and the comparatively recent emergence of many newly independent nations has brought about a proliferation of divergent practices and attitudes relating to the problems which arise in this connection. The United Nations International Law Commission does have on its agenda the question of state succession which will probably be discussed soon now that the Commission has completed its consideration of special missions. In the meantime, however, any serious efforts to clarify the

issues, and the competing claims of States or to present the contemporary practice of States should be enthusiastically received. One must, therefore, commend the International Law Association for having produced a most useful book. The work, as stated by the authors, is a "handbook of practice" relating to the effect of independence (of colonial territories, protectorates and mandates) upon treaties and represents the results of the study of the subject by the Association's Committee on State Succession. It provides much information that is not easily to be found elsewhere including United Nations publications such as the *Treaty Series* or the *Status of Multilateral Conventions*.

The work is especially informative and comprehensive in those sections devoted to inter-governmental organizations and to the practice among States which are members of the British Commonwealth. A certain imbalance is perhaps created by the considerable attention paid to the latter since a corresponding detailed discussion on non-Commonwealth practice is lacking. Other chapters are devoted to succession to multilateral agreements, "devolution" agreements, exclusion of succession on interpretation, disengagement from treaties succeeded to, boundary treaties, dispositive treaties and succession by protectorates and trust territories.

Of particular interest to those in Malaysia and Singapore will be (a) the list (p. 65), prepared by the British authorities, of British bilateral treaties which were applied *inter alia* to territories which later became the independent Federation of Malaya and, (b) the list (p. 390) indicating the territorial application of International Labour Conventions by the States of Malaysia (Sabah, Sarawak, Singapore and Malaya) as of March 1, 1964. With regard to the first-mentioned list, the authors make it clear that the treaties in that list had been applied to the territories before the Federation of Malaya became independent in 1957, and it is also rightly pointed out that the list does not necessarily reflect Malaya's (now Malaysia's) attitudes on the status of those instruments.

The reviewer considers it relevant to comment on the scope of the book which, essentially, is to compile the practice and some useful documentation and to present the problems. The Committee has deliberately declined to comment on the law — either by way of deductions from the practice or by recommendations. Hence the authors do not make recommendations on policies which could govern the resolution of conflicting claims of States or which could lead to proposals that can be considered by governments or by the International Law Commission. If this was because the members of the Committee were unable to agree, that would be understandable. We are told, however, that "the problem is too novel and the practice insufficiently coherent" to permit the Committee to take an "attitude with respect to the law" (p. xiii), that "it would be premature at this stage of its deliberations to formulate definitive principles" and that "Decisions are being made with some frequency by the new States themselves and by the various international organizations . . ." (*ibid.*).

Such an approach comes as somewhat of a disappointment. Organizations of scholars or lawyers such as the International Law Association (which has as members many scholars of unquestionable international distinction and repute) are in an eminently advantageous position to perform the role of commenting on contemporary international law, of making appraisals and offering recommendations where necessary to appropriate decision-makers concerned with the development of international law. The reasons which the Committee has given — that the problem was novel, that practice was still incoherent or that States and organizations were already making decisions — would, indeed, seem to be the very reasons for the Committee to have undertaken at this stage to offer constructive suggestions on the law and for performing, instead of declining, such a role.

But an examination of the book within the scope which the Committee had selected for itself leaves us with no doubt that the authors have done an excellent job. It will not only be valuable to teachers and students interested in the subject but it should be highly recommended also to officials of international organizations and of foreign affairs departments of States for, as we are told, "they have been resolving problems of State succession to treaties with very little information about each other's attitudes and in the result there has been considerable inconsistency . . ." (p. xiii).