

INTERNATIONAL LAW IN AUSTRALIA. By Professor D. P. O'Connell, published for the Australian Institute of International Affairs. [London: Stevens & Sons. 1965. xliii + 603 pp.].

This is a very informative and commendable collection of 21 articles by 17 different authors (C. H. Alexandrowicz, Sir Kenneth Bailey, P. H. Bailey, G. P. Barton, A. H. Body, A. C. Castles, N. C. H. Dunbar, R. L. Harry, J. Leyser, R. D. Lumb, D. P. O'Connell, I. A. Pyman, K. Ryan, G. Sawyer, I. A. Shearer, J. G. Starke, J. Varsanyi), edited by Professor O'Connell. The 21 papers deal with particular aspects of international law, as applied and interpreted by Australia. It will suffice to enumerate the subjects of the articles to demonstrate the comprehensiveness of the compilation under review: "The Evolution of Australia's International Personality"; "Australian Constitutional Law in Relation to International Relations and International Law"; "Australian Treaty Making Practice and Procedure"; "Australia's Commitments under the United Nations Charter"; "Australia and GATT"; "Australia and the ILO"; "Australia and International Air Law"; "Australia and the South Pacific Commission"; "Australia and the International Financial Institutions, the Colombo Plan and the Indus Waters Agreement"; "Australia and the Geneva Conventions on the Law of the Sea"; "Australia Coastal Jurisdiction"; "International Law and Australia's Overseas Territories"; "The International Status of the Australian Antarctic Territory"; "The United Nations and Australia's Overseas Territories"; "Australia and Collective Security"; "Australian Jurisdiction over Visiting Forces"; "Diplomatic and Consular Immunities and Privileges in Australia"; "Immigration, Aliens and Naturalization in Australian Law"; "Alien Property in Australia"; "Borrowings by the Australian Government Overseas"; "Extradition and Asylum in Australia".

There are those who argue that international law should not be discussed from the standpoint of a particular country or municipal system, lest it be diluted and downgraded by parochialisms. I do not believe, however, that it would be fair to level such a criticism against the present book. Its authors are careful to spell out each time the position under international law and then proceed to inquire how the Australian law lives up to the requirements of international law. Such information must be welcome to both the international and the comparative lawyer. Indeed the reading of the book under review lets one look forward to the publication of a similar book written by lawyers of a country which has recently acceded to independence.

It would be impossible to do justice to all the articles contained in this book, and so I select a few points at random for mention. Professor O'Connell thinks that, although since federation the Australian states have made no effort to contract international agreements themselves, it is still uncertain that they may not do so (pp. 15-16). He invokes the example of the German states which have power to conclude international agreements within the limits of their competences. The same is true, to be sure, of Swiss cantons and of Soviet Republics. But what Professor O'Connell probably had in mind was the recent dispute between the federal government of Canada and the province of Quebec, as a result of which the central government agreed to let Quebec conclude international agreements with other nations, subject to the provisions of a so-called framework agreement between Canada and the other contracting party. Quebec is an important and compact French-catholic minority group within an otherwise predominantly protestant, anglo-saxon majority. None of the Australian states maintains such a position, and that is why Dr. Leyser's viewpoint that the states have no status in treaty-making (pp. 444-45) seems to me likely to prevail in the long run.

Ambassador Harry relates that Dr. Evatt deduced from article 56 of the United Nations Charter a "clear mandate and obligation to promote full employment" (p. 73). Sir Robert Menzies stated that the obligation was "very indefinite", but did not directly disagree with Dr. Evatt.

Dr. Ryan argues that the White Australia immigration policy is legitimate under international law, not only because the power to forbid the entrance of foreigners is a power inherent in a sovereign state, but also because the Australian policy is a measure necessary to preserve the national character or economic prosperity of the community (pp. 482-83).

According to Dr. Lumb, the expropriation of the property of non-enemy aliens is permissible only if made for a public purpose, non-discriminatory, and followed by prompt, adequate and effective compensation (p. 500). Australian law is in accord with these principles. The learned author points out specifically that payment in a lump sum in Australian currency would be an effective compensation, since Australian currency has a value on the international monetary market (p. 524). This leaves us with the tantalizing question whether payment in the currency of a developed country is *per se* effective, payment in the currency of a less developed country *per se* ineffective. Dr. Lumb does not attempt to raise or answer this question, nor can be expected to. However, the problem raises certainly delicate issues of equality of states.

In summary, then, this is a stimulating and commendable book well worth reading.