

BOOK REVIEWS

BRITISH INTERNATIONAL LAW CASES, Vol. 6; vol. 7 (Supplement 1951-1960). Edited by Clive Parry. [London: Stevens; Dobbs Ferry NY.: Oceana. Respectively, 1967 & 1969; xxvii + 984 pp. (including Index) & xxxi + 1270 pp. (including Index)].

A BRITISH DIGEST OF INTERNATIONAL LAW, Vol. 2b, Phase One, Part III (Contd.). Edited by Clive Parry. [London: Stevens, 1967. xxv + 804 pp. (including Index)].

(a) *The British International Law Cases*

According to the Preface to the first volume of the British International Law Cases (hereinafter referred to as B.I.L.C.) the series was, in a sense, inspired by the late Sir Hersch Lauterpacht who had hoped for the publication of several volumes to cover the period from 1764 (or 1794) to 1919 the latter being the start of the period covered by the *Annual Digest*. When the B.I.L.C. was finally embarked upon, however, the series did not turn out to be what Lauterpacht would have wanted. For instance, unlike the *Annual Digest/International Law Reports*, the present work is confined to reports of municipal decisions of "the British Isles" including, however, the decisions of the Judicial Committee of the Privy Council. Then again, the time limit suggested by Lauterpacht is discarded, the B.I.L.C. going as far back as *Calvin's case* (1607-8) and, on the other hand, 1950 being the cut-off date (this representing the date of commencement of the *International Law Reports*).

There are six main volumes and this year a further seventh volume was published to supplement the period 1951-1960. Taken as a whole, therefore, the series covers British international law cases up to 1960.* The work is edited by Dr. Clive Parry who is also the Editor of the other important compilation *British Digest of International Law*. The publication of this ambitious collection was sponsored by the British Institute of International and Comparative Law and the International Law Fund.

There will, of course, be some duplication and repetition of cases covered in the *Annual Digest/International Law Reports*. But this does not really diminish the value of either. The B.I.L.C. does not only give the decision of the highest tribunal but in many instances also sets out the decisions of the lower courts on a case. This is, without doubt, an advantageous feature. But the B.I.L.C. only includes cases on the law of peace and we are also told that the plan to publish cases on war and neutrality had been abandoned as it threatened to enlarge the series to twice the present size. Hence, the International Law Reports will continue to retain their usefulness it being also remembered that the I.L.R. covers cases from various countries and international tribunals.

*Briefly, the contents of the six main volumes are:-

1. States as International Persons.
2. States as International Persons, contd./State Territory.
3. Jurisdiction/Addendum.
4. The Individual in International Law.
5. The Individual in International Law, *contd.*
6. Diplomatic and Consular Agents/Treaties/Addendum.

In the Preface to the sixth volume Clive Parry states that two further volumes will be produced containing a selection of international law decisions of courts from Commonwealth countries. It is unfortunate that this decision was not made earlier for the decisions of the Judicial Committee of the Privy Council which are included in the present volumes could, more appropriately, have been relegated to the proposed two volumes.

In Volume 6, about 280 pages are devoted to cases on Diplomatic and Consular Agents, about 490 pages to cases on Treaties and the remaining 146 pages constitute and Addendum to the topic "States as International Persons" which is dealt with principally in volumes 1 and 2. Volume 1, (the supplementary volume) covers cases for the period 1951-1960 and follows the scheme of classification used in the other six volumes.

Not too much can be said about each individual volume, (including volumes 6 and 7) for the B.I.L.C. series, it seems to the reviewer, should be judged as a whole. And taken as a whole, the seven volumes constitute a most welcome aid for anyone researching the development of international law by British courts. It will also be invaluable for students in any public international law course who will now be saved from having to consult numerous English law reports. As far as this reviewer could ascertain the collection of cases here is exhaustive. It should be emphasised that this is certainly not an overgrown casebook, for the case reports are presented in full. An added advantage is that the pagination of the original report is indicated, promising, therefore, that reliance on the B.I.L.C. would be as authoritative as reliance on the actual law reports. Each volume has an excellent Consolidated Index as well as a Cumulative Tables of Cases both of which further enhance the indispensable nature of the B.I.L.C. for research purposes.

(b) *British Digest of International Law*

It is rather surprising that the diplomatic papers or official foreign office documents of the United Kingdom have so seldom been tapped to compile the evolution of that nation's attitudes to and practices in international law. One must therefore welcome the publication of the *British Digest of International Law* (B.D.I.L.) "compiled principally from the archives of the Foreign Office." The Digest is edited by Dr. Clive Parry (who is also editing the *British International Law Cases*) and the Consulting Editor is Sir Gerald Fitzmaurice.

The Digest is, somewhat awkwardly, divided into two Phases (each Phase having Parts and Chapters). Phase One is to have ten volumes covering the period 1860-1914. Phase Two (five volumes) is to cover the period 1914-1960. Full comprehension of the scope of the entire work can only be gained if we set forth below the scheme of the volumes which will constitute Phase One (1860-1914). The five volumes for Phase Two will follow this arrangement as closely as possible.

VOLUME 1 *Part I: Introductory*

Chapter 1: The Nature and Sources of
International Law

Part II: International Persons

Chapter 2: States in General
Chapter 3: Recognition of States and Governments
Chapter 4: Succession of States and Governments

VOLUME 2 *Part III: Territory*

Chapter 5: Acquisition and Loss of Territory
Chapter 6: The Extent of State Territory
Chapter 7: International Waterways
Chapter 8: Rights in Foreign Territory

VOLUME 3 *Part IV: Jurisdiction*

Chapter 9: Territorial Jurisdiction
Chapter 10: The Legal Regime of the Sea
Chapter 11: Personal Jurisdiction
Chapter 12: External Jurisdiction

VOLUME 4 *Part V: Responsibility of States*

- Chapter 13: Responsibility of States in General
- Chapter 14: International Claims

VOLUME 5 *Part VI: The Individual in International Law*

- Chapter 15: Nationality and Protection

VOLUME 6 Chapter 16: Aliens

- Chapter 17: Extradition: Rendition of Fugitive Offenders

VOLUME 7 *Part VII: Organs of States*

- Chapter 18: Central Organs
- Chapter 19: Diplomatic Agents

VOLUME 8 Chapter 20: Consular Officers

- Chapter 21: Functions of Diplomatic Envoys and Consular Officers, etc., in relation to Foreign Marriages

VOLUME 9 *Part VIII: Treaties*

- Chapter 22: The Law of Treaties in General
- Chapter 23: Particular kinds of Treaties

Part IX: Settlement of Disputes

- Chapter 24: International Arbitration and Adjudication
- Chapter 25: Other Methods of Settlement

VOLUME 10 *Part X: War and Neutrality*

- Chapter 26: Land and Air Warfare
- Chapter 27: Maritime Warfare
- Chapter 28: Neutrality

It would appear that emphasis is to be placed on the period 1860-1914 (ten volumes). The relegation of only five volumes to the period 1914-1960 is difficult to understand and is not explained in the Preface. This more recent fifty-four year period certainly witnessed many developments and issues of international law—the outbreak of two world wars and the efforts to establish norms outlawing the use of force, the process of decolonization, the emergence of numerous new States, questions of succession, the establishment of the United Nations and other international organizations, the establishment of diverse multilateral treaties, *et cetera*. There must one should think, be a wealth of official materials on the different international law problems on which United Kingdom might have had to express its views. It is this reviewer's feeling that Dr. Clive Parry and his research team may find it not possible to devote only five volumes to this latter period.

The Digest, notwithstanding the comment just expressed, will undoubtedly become important material for the research student. The practitioner or student interested in contemporary British practice in international law will not find the B.D.I.L. very useful since its focus is on the past rather than the present.

Considerable, but appropriate, editorial writing not only helps to link the various extracts from official documents but also assists the reader to appreciate the significance of the extract. The sources principally relied upon include Foreign Office Unprinted Papers, Foreign Office Library Memoranda, Foreign Office Printed Papers, Reports of Law Officers of the Crown and Parliamentary or Command Papers.

Volume 2B itself consists of Chapter 7 (International Waterways) and Chapter 8 (Rights in Foreign Territory). In other words. Volume 2 on Territory (see the

scheme of Volumes for Phase One) has been split into two volumes. Chapter 7 contains an interesting account of the Suez Canal and Britain's involvement. Chapter 8 has a good section on the doctrine of servitudes and the materials drawn from the North Atlantic Fisheries Arbitration are especially well presented.

S. JAYAKUMAR