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Cases and Other Materials on International Law, edited by Manley O. Hudson

William Hepburn
Harvard Law School

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REVIEWS

CASES AND OTHER MATERIALS ON INTERNATIONAL LAW*

This most recent of the American casebooks on International Law is also the thickest.¹ There are 1,521 pages of text, consisting of cases from American, British and other national courts, judgments and opinions of the Permanent Court of International Justice, awards of the tribunals of the Permanent Court of Arbitration, decisions of international claims commissions, national statutes, and treaties or other international agreements. Besides the usual Tables of Contents and of Cases and a well-conceived index of great detail, there is a valuable Table of Treaties, giving in each case the date of signature or other relevant date, and a Table of National Legislation, listing with dates the decrees, acts, proclamations, etc., included in the body of the book. Only particular parts of such treaties, acts, etc., are, of course, included by the editor of the work. At pages xxv-xxxv there is a selected bibliography of about two hundred titles. The editor's notes to the various selections contain much other bibliographical material of a more specific nature, with frequent references to periodical literature.

Professor Hudson has used the abundant material which goes into the making of International Law more fully than his predecessors. He has been better able to, since much of it is of very recent origin, and because developments since the war give older materials a different value.

Certain questions are dealt with which are not matter of International Law. Naturalization, as the editor points out, touches mainly the national law of the United States. It is, nevertheless, of great international significance, and is not adequately dealt with in any other course in the law school curriculum.

The skill of a casebook editor is tested not only in the selection of the materials to be used, but in their arrangement, and the emphasis which he puts on the different parts. Since Freeman Snow's *Cases and Opinions in 1893* the substance of Interna-

**Cases and Other Materials on International Law*. Edited by Manley O. Hudson, Bemis Professor of International Law, Harvard Law School. 1929. St. Paul: West Publishing Company. pp. xxv, 1538.

¹ Important American casebooks on the subject are: *Cases and Opinions on International Law*, by Freeman Snow (1893), xl plus 577 pages; *Cases on International Law*, by Dr. James Brown Scott (1922), xxxvi plus 1,180 pages; *Leading Cases on International Law*, by Lawrence B. Evans (2d edition, 1922), xxv plus 852 pages.

tional Law has changed a great deal. Snow's book was divided into two sections: Part I—International Relations in Time of Peace (237 pp.); Part II—International Relations as Modified by War (276 pp.). Scott's Casebook of 1922 had three parts: I—Rights and Duties of Nations in Time of Peace (466 pp.); II—Compulsive Measures of Redress in Time of Peace (36 pp.); III—Rights and Duties of Nations in Time of War (610 pp.). Evans did not divide his book into sections, making a sharp distinction between war and peace, but, nevertheless, nearly half the total number of eight hundred odd pages is given to war or matters related thereto. Turning to Professor Hudson's book we find a very different relative value given to the subjects of war and peace. In fact, looking at the index, we are not conscious, as in the other cases, of feeling that International Law deals with war and peace, and little else. It appears simply as one of many incidents of relations between states. This does not mean at all that important questions of war and peace are treated any less fully by Professor Hudson than by his predecessors in this field. He points out that this classic distinction has been minimized by a different grouping. And by this regrouping an important fact is made to stand out: war is not a condition in international affairs co-equal in dignity with peace, but is an abnormal state encroaching on the many normal interstate relations.² Professor Hudson has not been content simply to treat the subject of his work with a shifted emphasis, but has brought in some of the new material of the post-war years and other matter, not new, but of new importance. Such, for instance, are the sections on International Communications, Protection of Labor, International Claims, and the Permanent Court of International Justice.

Every new casebook raises certain pedagogical questions distinct from the subject-matter treated under the particular title. It seems fairly clear that the case system is not today what it started out to be. It is becoming increasingly clear that a great many people who are competent to judge are not satisfied with it. It is a far cry from Freeman Snow's preface of 1893 to the

² The Swiss publicist Vattel, in his famous 18th Century *Traité du Droit des gens* devoted only about a quarter of his work to a consideration of questions of war. War was a great deal more important relatively then than now. For example, from 1689 to 1815 England had 77 years of war. During that period France had 56 years of war with England alone. Vattel devotes less than five pages, however, to pacific settlements of international disputes, with qualifications as to essential rights when a nation "will take counsel only from her own courage." Professor Hudson devotes many times Vattel's space to the pacific settlement of international disputes. The contrast between the old and the new in international relations is again indicated in this different stress.

case system as it is in use today.³ Whatever the casebook of the future may be, it must be admitted that Professor Hudson has given the teachers of International Law a very fine volume for use in their classes. The usual faults of the casebook editor have been avoided—the gaps are not apparent, insignificant details are not repeated, irrelevant ponderings of judges are not set down for the sake of completeness, there is little obscurity. An exception to the last point seems to be found in the case on page 402—The Monastery of St-Naom. This is an Advisory Opinion of the Permanent Court of International Justice. I doubt if one student in twenty reading it could tell what it is all about. A restatement by the editor would be welcome. This would not involve obscuring each of the little steps by which the court advances to the simple conclusion that the “Principle Allied Powers, by the decision of the Conference of Ambassadors of December 6, 1922, have exhausted . . . the mission . . . , etc.” and would enable the student to read the case with profit and fit it into the section of Interstate boundaries, where it is given. It must be said that, in comparison with most casebooks, the one under review has none of the evidences of an attempt to stimulate the reader by befuddling him.

The cry still goes up from some law school deans that International Law is not law in the good old Austinian sense, and should not be taught in our law schools. In whatever sense it is not law, it is in the one that lawyers and judges are often called upon to draw briefs and decide cases as though it were. It is, moreover, one of the few law school studies that has not become completely de-humanized into a trade-school course. No one could doubt the vital importance of the subject to lawyers as lawyers, however, after an examination of Professor Hudson's stimulating casebook. And a great many of its excellent qualities come, doubtless, from the fact that it is not simply a casebook, but includes, as its title indicates, “other materials.”

WILLIAM HEPBURN.

Law school, Harvard University.

³ Freeman Snow's Preface to his Cases and Opinions on International Law. “To avoid the method of instruction by lectures alone, and the even less satisfactory method of recitation from text-books, it is believed that the ‘case system’ introduced into the Harvard Law School a score of years ago, offers a happy substitute.” It is apparent that the system was based on small classes, for the student is to take an “active part in the exercises of the lecture room. . . . He should thus acquire a firmer grasp of the subject than he can get from the study of text-books alone. . . . It is not proposed, however, to discard textbooks. . . . A collection of cases and opinions, moreover, must necessarily leave many gaps. . . .”