



certain interesting areas which are of significance to the Law of Nations, including the Law of the United Nations. The book is well documented, accompanied with an impressive list of appendices, valuable bibliography, chronology of events and an index. Coming from an Indian author, the book is highly welcome as it manifests the growing awareness of the Indian scholars to the problems of international law.

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Rivers in International Law By F. J. Berber. [London: Stevens & Sons Ltd., 1959, XI pp. 282 and index pp. 14. £2 5s. net].

The advancement of science has thrown up many new problems into the international field. International law must of necessity extend its boundary line to meet new situations as they arise. Formerly international rivers had only non-consumptive value, but with the advent of electricity and other scientific inventions the rivers have attained consumptive value. Naturally, therefore, the diversion of water of international rivers for irrigating arid zones and other purposes often creates disputes between riparian States. These disputes, if they are not settled politically, await solution within the bounds of international law.

This book by Professor Berber, one of the legal advisers to the Government of India in the Indus Water dispute, is in the main a translation of the German edition published in 1955. The author examines some of the important problems in the development of international water rights in the background of international treaties, arbitral awards, municipal legislation, theoretical treaties and State practice. Having analysed in the first chapter the new problem that has risen in the past one or two decades due to the consumptive uses of international rivers, he enters in the subsequent chapters into the realms of international law in search of a legal solution to the problem. But, before embarking on the solution—searching expedition, the author gives vent to his scepticism regarding the search in the first chapter itself in the following words: “It is simply premature at the present time to wish to offer a system of international water law as this would inevitably lead to half true generalisations and to dangerous superficialities” (pp. 9-10)

In the second chapter the author discusses the basic theoretical problems. He examines in this connection four principles, namely, the principle of absolute territorial sovereignty, the principle of absolute territorial integrity, the principle of a community of property in water

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and the principle of restricted territorial sovereignty and of restricted territorial integrity, and dismisses every one of them as he finds them inadequate. The author then proceeds to the third chapter to discuss the sources of international law and the nature and validity of customary law. Even these, according to him, do not provide an adequate solution to the problem at hand.

His scrutiny of a number of bilateral and multilateral water treaties in the fourth chapter leads him to the conclusion that there is no information concerning possibly existing State practice in connection with the present problem (p. 124); his inquiry into treaties as a source of customary law as well leads him nowhere but to the conclusion that "universal rules of customary international law cannot, after a painstaking examination, be discovered in the present field" (p. 149) and that "as far as an order of priority for the different uses of water is concerned, it is not possible at the present time to establish any rule of customary law" (p. 159). Similarly, after examining the decisions of international tribunals and other international organisations, municipal legislations, decisions of municipal courts and the general principles of law as recognised by civilised nations, the author concludes that these do not offer any workable principle towards the solution of the problem.

The author does not wholly dismiss the significance and utility of the existing general principles of international law in the realm of international water disputes. He finds in them a welcome hindrance to the invocation of the plea of domestic jurisdiction thus opening "the way to action by international organs, more in the form of good offices, mediation and conciliation than in the form of the settlement of disputes according to law. The solution which the author offers is the conclusion of specific and specialised water treaties. This he thinks is by far the best solution considering the "rudimentary, vague and still developing" character of international law and of the fact that "water disputes are matters suited not for the application of the international judicial process but for the application of international legislation." The conclusion of individual treaties for each river basin is no doubt a welcome solution; but the *stne qua non* for this are the existence of amity and willingness to live and let live.

It is also interesting to note the author's views on the possible legal arrangements between the disputant States to empower the international court by a special agreement, to give a decision *ex aequo et bono*. According to him, recourse to such a method is good in so far as it would substantially lessen the doubts expressed in his book about the



suitability of the judicial process for the settlement of water disputes on the basis of prevailing international law. However, he is of the opinion that "if no applicable rule of law exists in a particular international dispute, then it is much better that the parties themselves to the extent that they act as legislators on the international plane in concluding a treaty, should give these principles a concrete form in the treaty concluded, instead of appointing a dictator who dictates the treaty in the form of a judicial decision as though despairing of being able to create law by themselves" (p. 267).

The book is not a lawyer's plea in support of one party or the other, nor does it purport to be a guide for future disputants. It is a good treatise written by an erudite scholar. Professor Berber has thoroughly succeeded in his endeavour "to provide a particularly clear picture of the structure and intensity of the present stage of international law as evidenced by a new and sensitive problem". The book leaves the impression that the learned author belongs to a school of thought which believes in the existence of "gaps" in international law.

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"*Essays in Law*", Edited By T. K. Tope, Principal, Government Law College, Bombay, 1960. (pp. xxiv and 94. Price Rs. 5.)

This book contains essays specially written on four important topics in the field of Law on the occasion of the centenary celebration of the Government Law College, Bombay, in September last year. At a time when organised legal research in India is not yet an accomplished fact as remarked by Shri A. K. Sen in his Presidential Address, any attempt in the direction of original work and research undertaken by the members of a Law Faculty should be particularly welcome.

Prof. M. J. Sethna throws a number of provoking suggestions in his essay on "A case for synthetic Jurisprudence in India". He describes it as "my synthetic Jurisprudence" which "involves an abandonment of the different types or kinds of jurisprudence and the having of nothing but one kind of jurisprudence, and that is *integrated* or *synthetic* jurisprudence which absorbs all the different kinds." As he himself acknowledges, this kind of approach resembles the one adopted by Professor Jerome Hall of the United States which is known as "integrative jurisprudence." The author proceeds to illustrate with some of the fruits of the synthetic method and they relate to the redefinition of

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