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THE POLITICAL ROLE OF THE GENERAL ASSEMBLY. By H. Field Haviland Jr. New York: Carnegie Foundation for International Peace, 1951.

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BOOK REVIEWS

THE INTERNATIONAL COURT OF JUSTICE. By Oliver J. Lissitzyn. New York: Carnegie Foundation for International Peace, 1951. Pp. 109. \$2.75;
THE POLITICAL ROLE OF THE GENERAL ASSEMBLY. By H. Field Haviland Jr. New York: Carnegie Foundation for International Peace, 1951. Pp. 180. \$2.75.

The Carnegie Foundation for International Peace in 1947 introduced a United Nations Studies Series, of which to date seven publications have been issued. The first of this series introduced was *The Budget of the United Nations* prepared jointly by the Maxwell Graduate School of Citizenship and Public Affairs of New York University and the Carnegie Endowment. A critical and objective statement of the basic budgetary problems of the United Nations and its affiliated agencies was presented.

The second publication, *Coordination of Economic and Social Activities*, was prepared by Dr. Walter R. Sharp, Chairman of Government of the College of the City of New York. This was an analysis of key problems in the evolving relationships of the organs and agencies of the United Nations system, with respect to economic and social matters.

The United Nations Secretariat was the third book issued. A study of the policies required to enable the United Nations Secretariat to fulfill effectively its essential role as a major element in international organization. The fourth publication, *Consultation Between the United Nations and Non-Governmental Organizations*, was a study of existing consultative arrangements and procedures with proposals for further developments in respect to the consultative process.

The fifth book written by Eduardo Jiménez De Aréchaga of the School of Law of Montevideo, Uruguay, concerned itself with voting and the handling of disputes in the Security Council.

This review covers the sixth and seventh books issued in June and July of this year respectively.

Professor Lissitzyn emphasizes the role of international law and its organs in the maintenance of peace and security in his book entitled *The International Court of Justice*. He discusses the first international Tribunal¹ and compares it with the second international Tribunal² which today is operating under the Charter of the United Nations. The second court, as was the first, is undoubtedly a more effective instrument of international law than any arbitral tribunal set up to dispose of a particular

1. Permanent Court of International Justice.
2. International Court of Justice.

controversy. The Court's existence rests upon the agreement of most of the states of the world.³ Its membership is stable and widely representative of the major geographical regions and legal systems of the world, and is not, for the most part, determined by the parties to a particular dispute. Its standards and traditions rest upon the cumulative integrity, wisdom and experience of the many eminent international jurists who have sat on its predecessors.

It is pointed out that the Court's function in the development of international law can be exercised not only in connection with the adjudication of contentious cases, but also in connection with the rendering of advisory opinions.⁴ The Court is not formally bound by its own precedents according to Article 59 of the Statute. However, the Court refers constantly to its own previous decisions and pronouncements, and has never admitted that any two of its judgments or opinions have been inconsistent. The attitude of the Court toward precedents is very similar to that of the Anglo-American courts by way of the doctrine of *stare decisis*, which is still widely respected, at least in theory. The Court even with lack of precedent keeps abreast of the international community as exemplified by its advisory opinion⁵ holding that the United Nations is an international person which has the capacity in international law to bring claims against states, including non-members.

The Court interprets treaties, questions of its own jurisdiction and the functions of particular international organs. The author presents some of the more important cases which have come before this tribunal, e.g., case of claims against Palestine for the death of the United Nations Mediator⁶ and the Corfu Channel case between United Kingdom and Albania.⁷

Procedural aspects of the Court are not overlooked. The Court is designed to be properly equipped for dealing with questions of fact as well as of law. The impartiality of the judges sitting on the Tribunal has been adequately covered by the Statute dealing with the election of the judges to the Court.⁸ The judges are elected for nine-year terms by the General Assembly and Security Council and may be reelected.⁹ It is to be noted that provisions are set forth for non-participation of a judge in the decision of a case with which he had been previously connected in

3. As of February 1, 1951, the parties to the Statute included all the Members of the United Nations, Switzerland and Lichtenstein. Between 1921 and 1942 fifty-one states became parties to the Statute of the Permanent Court but neither the United States nor the Soviet Union was among them.

4. Article 96 of the Charter.

5. ICJ Reports, 1948, pp. 178, 182.

6. United Nations Bulletin Vol. IX, p. 578 (1950).

7. ICJ Reports, 1949, p. 35.

8. Article 9 of the Statute: ". . . in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

9. Article 13 of the Statute.

another capacity.¹⁰ The members of the Court sit not as representatives of particular states but as judges elected by organs of the world community. The author expresses the feeling that although there has been some partiality shown by members of the Court, this Court has been held in high repute by the various governments. The ideal of absolute impartiality is hardly ever attained even in the judicial tribunals of the best organized modern states. It must be remembered that according to the Statute¹¹ only states may be parties in cases before the Court. Neither individuals nor organizations have standing before the Court.

In very rare instances does the author have a criticism to make of the Court. He, however, points out that a judgment of the Court is final and without appeal, thus how can the Court enforce its decisions not having marshals or sheriffs at its disposal? In case of noncompliance with a judgment, the Security Council "may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment."¹²

The author states that most cases which had arisen in the first Court involved countries in Europe and the Middle East almost exclusively, whereas the second (present) Court has already handled one case between two Latin American States¹³ and has presently before it a dispute between France and the United States.

The author warns that the Court has not been fully utilized because many international grievances had arisen which were not brought under the jurisdiction of the Court. The Court should be more effectively used in the future in helping to solve some of the world problems before they are out of control and result in all-out warfare. As far as the maintenance of international peace is concerned, the International Court of Justice can play only a modest role, depending on the strength of the United Nations in the future.

The book makes extremely interesting reading and is a "must" for international jurists.

The latest in the series of United Nations Studies, *The Political Role of the General Assembly*, authored by Dr. H. Field Haviland, Jr., of the Department of Political Science, Haverford College, gives the reader the "inside" of the functions of the General Assembly. To understand the purpose of the United Nations it is vitally necessary that one be acquainted with the operation of the General Assembly. The author's first hand information by personal observation of recent sessions of the General Assembly gives us the practical aspects of this body.

We are first taken back to Dumbarton Oaks and San Francisco where the political role of the Assembly was formulated. The General Assembly

10. Article 17 of the Statute.

11. Article 34(1) of the Statute.

12. Article 94(2) of the Statute.

13. Colombian-Peruvian Asylum case, ICJ Reports, 1950, p. 266.

was given the same broad powers that the League Assembly had been given in the League of Nations. Article 10 of the Charter¹⁴ provides for this power.

The author explains the "Uniting for Peace" resolution which ultimately gave the General Assembly the right to use armed force against aggression. When referring to "political" in connection with United Nations affairs, it means those questions which are so highly charged that they are a potential threat to international peace. Through experience¹⁵ did the United Nations learn that it would be necessary to give powers to a body such as the General Assembly. The Assembly is the backbone of the United Nations and with its new roles should rather strengthen than weaken the United Nations. This United Nations Series in toto is a fine collection of materials presented by outstanding men in the international field. It would be, however, strongly advisable that these pamphlets and books be placed in more permanent form by being combined into one large volume, readily accessible to the general public.

G.HUGO WEIDHAAS

FORMER ATTACHE OF THE
FOREIGN SERVICE

THE CONFLICT OF LAWS AND INTERNATIONAL CONTRACTS. Various lectures comprising the 1949 Summer Institute on International and Comparative Law. Ann Arbor: University of Michigan Law School, 1951. Pp. 200.

The two years that have elapsed since this Institute was held have not dulled in the slightest the lustre of these lectures. Perhaps the most remarkable thing about this book is that in such a small compass so much has been said. Most of the authors have said some of the things before, some have repeated them since, but in no case does this reviewer know of a place in which they have been enunciated with such clarity, such brevity and brilliance. This volume is superior to the best of law review symposia because it bears the impress of group work. Though it may have been slight, the influence of working together under fire of practical questions from attorneys, students and judges has left a patina, a refinement in product that is admirable. No finer tribute can be paid to this first effort to explore the "frontiers of the law" than that it has set a level of exploration which will be hard to surpass. This volume

14. The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

15. League of Nations - League Assembly.