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## Reviews of “Cases on International Law,” By James Scott and Walter Jaeger and “The Law of Nations—Cases, Documents, and Notes,” By Herbert Briggs

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The reviewer is at loss to see the value of lengthy quotations from cases, as for instance two entire pages from *Taylor v. Morton*, or of the long extracts in Spanish from Bustamante and Cruchaga,<sup>8</sup> which probably only a few readers will understand. The bibliography which is intended for "the scholar and student who are desirous of conducting further researches on the subject" show serious deficiencies. One misses references to Anzilotti's and Cavaglieri's celebrated treatises, to Fedozzi-Santi Romano's great *Trattato di diritto internazionale*, to Stier-Somlo and Walz's recently completed voluminous *Handbuch des Völkerrechts*. There is no mention of any writings of Kelsen; one misses his adversary Triepel's famous *Völkerrecht und Landesrecht*. Lisft's *Völkerrecht* is not cited in Fleischmann's valuable edition of 1925 and Lauterpacht's edition of the second volume of Oppenheim is likewise forgotten. The *Recueil des Cours* of the Hague Academy is listed as 1923-1931, thus omitting the last 6 years. Bruns' *Zeitschrift für ausländisches öff. Recht und Völkerrecht* and other periodicals dealing with international law would have deserved a reference more than "Current Legal Thought."

All this might be of secondary importance if the book had the result of stimulating interest in international law. But from a scholarly and technical point of view the reviewer regrets that he cannot joint Judge Bustamante's praise in the foreword.

STEFAN A. RIESENFELD.†

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CASES ON INTERNATIONAL LAW. By James Brown Scott and Walter H. E. Jaeger. St. Paul: West Publishing Co., 1937. Pp. lxxix, 1062.

THE LAW OF NATIONS—CASES, DOCUMENTS, AND NOTES. By Herbert W. Briggs. New York: F. S. Crofts & Co., 1938. Pp. xxix, 984.

The case-book has been generally accepted as a necessary part of the equipment for the study of any branch of the law. For a course in International Law it is obviously even more indispensable than for courses in the Municipal Law on account of the great difficulty in this field of collecting anything comparable to the sets of supreme court reports in the domestic field. Possibly John Bassett Moore's heroic project for the collection of all the international arbitrations of the world may inspire someone to undertake the compilation of a complete chronological world-wide series of decisions under international law upon which to build a comprehensive digest service such as is now available in the field of American municipal law; but up to now nothing but an occasional fragment of the sort has been done. Consequently, the student of international law is heavily dependent upon the case-book.

There are now on the market at least half a dozen acceptable case-books from which a choice can be made. They vary greatly in plan. It has become traditional to separate the cases which have arisen under the laws of peace from those which have arisen under the laws of war and possibly

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8. Pp. 146, 263, 270, 306, 343 et passim.

† J.U.D. Univ. of Breslau, 1932; J.U.D. Univ. of Milan, 1934; LL.B. Univ. of California, 1937; Graduate Student, Harvard Univ. Law School.

to overemphasize the latter. Scott and Jaeger have departed from this tradition by classifying their cases on the bases of substantive law and procedural law. The distinctions between the laws of peace and the laws of war, of course, remain, but the innovation will probably serve the very useful purpose of directing formal attention to the somewhat neglected procedural aspect of the cases on international law.

These case-books differ from each other greatly also in their contents. The typical case-book of the past was based primarily upon American and British decisions. Hudson's volume was a notable exception and now Scott and Jaeger report cases selected from the tribunals of "some sixty sovereign nations." It is also of significance that in recent case-books has been included an increasingly large number of judgments and opinions from the Permanent Court of International Justice and of awards by arbitral tribunals.

There is in the field of international law even less of a consensus on the question of what particular decisions best illustrate a particular legal principle than in the municipal field. It is a rather striking fact that of the "cases reported" in the two collections here under review, less than twenty percent are found in both volumes. A large number of others are, of course, covered by foot-notes. Since every instructor in the field also has his favorite old and new cases, even the best planned case-book can be merely a tool to be adapted and supplemented by each user to meet his own needs.

James Brown Scott has been among the most eminent pioneers in the field of case-books on international law and now, in collaboration with one of his former students, is found still creatively pioneering, as the innovations already mentioned seem to indicate. The new volume is in a sense the third edition of the long standard collection first published in 1902. The new edition is eruditely documented and implemented with table of contents, foot-notes, table of cases, extensive bibliographies, table of abbreviations, a table of national courts, two appendices containing the Covenant of the League of Nations and the Neutrality Statute of the United States, and an index. The authors have introduced for the first time in case-books on international law a series of problem notes at the end of each chapter. These involve essentially the brief presentation of the facts in additional cases, with suitable questions, and the citation of cases. This feature should prove an interesting and stimulating pedagogical device.

This case-book, already accepted as a standard one, has been perceptibly bettered in the new edition. The new plan of organization is an innovation which is likely to win general acceptance, although the relative space devoted to procedure is almost certain to be modified. Excessive abridgment of the cases reported is the one sin that stands out; and, even for that, extenuating circumstances are at hand in the authors' emphasized objective of confining themselves exclusively to the law.

The volume by Professor Briggs is built on an entirely different model. It follows the plan of such other recent case-books as those by Dickinson, Fenwick, and Hudson in that it includes not only judicial decisions and arbitral awards (to which Scott and Jaeger's collection is confined), but

also treaties and other official documents, opinions, and authoritative commentaries. It has copious editor's notes, essentially after the manner of text-book commentaries. The arrangement of the material is the traditional one.

In general, this volume approaches very nearly to a combination of case-book and text-book, similar to the recent volumes by Dickinson, Fenwick, and, in a more limited way, Evans. There is a great deal more to be said in favor of the simultaneous use of cases and text-books in legal education than the enthusiasts of the case-book system are ready to concede; but it is seriously questionable whether it is the wisest economy to attempt to combine the text-book with the case-book in a single volume when more cases, more fully reported are so badly needed and when good text-books are so easily accessible.

Here are the results of two formidable undertakings, each executed in accordance with the principles of first class scholarship. The question is not which of the two is the better, but rather which type is preferable for each particular course.

ARNOLD J. LIEN.†

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GOVERNMENT PROPRIETARY CORPORATIONS. By John Thurston. Cambridge, Massachusetts: Harvard University Press, 1937. Pp. xii, 294.

The lawyer who steps beyond the borders of judicial decision and statutory law finds himself too often in an unfamiliar realm. The lawyer is seldom tolerant of the theories of the political scientist. But when a political scientist explores a problem which falls within the gamut of the emprise of public law as well as that of public administration, the lawyer may hazard an expression on the result of the exploration.

Mr. Thurston's book is the first which makes a comparative survey of the government-owned corporations in the English-speaking world, and the first in a decade on American government-owned corporations.<sup>1</sup> The avalanche of literature on this topic, which has heretofore been confined to economic, political, and legal periodicals, attests to the paramount importance of the problems which it presents. With the New Deal serving as a catalyst, we have witnessed a mushroom growth of government-owned corporations which has furnished ammunition to the Congressional orator, columnist, politician, and student, all of whom talk glibly and volubly, few of whom speak knowingly.

The book is designed to supply much needed enlightenment on the structure of the organizations. The author is to be complimented. In approach-

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1. The last book which surveyed the government-owned corporations was published in 1926. See Van Dorn, *Government Owned Corporations*. More recent books have dealt with individual corporations and were the result of studies made at the invitation of the Secretary of War. See Dimock, *Government-Owned Enterprises in the Panama Canal Zone* (1934); Dimock, *Developing America's Waterways: Administration of the Inland Waterways Corporation* (1935).