

REVIEWS AND NOTICES

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Transactions of the Grotius Society. Volume 19, Problems of Peace and War. Papers read before the Society in the Year 1933. Price 10/-.

The objects of the Grotius Society are stated in its rules to be "to afford facilities for discussion of the Laws of War and Peace, and for interchange of opinions regarding their operations, and to make suggestions for their reform, and generally to advance the study of Public and Private International Law." It is apparent from Volume 19 of the *Transactions* of the Grotius Society that these worthy objects were steadily kept in view during the year 1933, the three-hundred-and-fiftieth anniversary of the birth of Grotius. The twelve papers read before the Society during 1933 by members and others of outstanding ability and distinction are all of such excellence that we should have liked to deal with each of them at length; but this is impossible on account of lack of time and space.

Dr. Eric G. M. Fletcher's paper on "John Selden," the contemporary of Grotius, is most interesting and instructive; while Sir Fiennes Barrett Lennard's contribution on "Some Aspects of Colonial Law" contains a wealth of information respecting the manner in which the authority of the King is exercised over colonies and protectorates in the spheres of legislation, administration and judicial business. "Treaty Revision" receives authoritative treatment in two papers, one by Mr. F. Llewellyn Jones, and the other by Mr. Wickham Steed; and to the latter are added some valuable observations by Sir Graham Bower, who was one of the founders of the Society, and whose recent death is the subject of an Obituary Notice in the *Transactions* now under review. Other subjects most ably dealt with are "The League of Nations and Racial Persecution in Germany," by Mr. Norman Bentwich, urging the intervention of the League; "The Balkan Union, The Balkan Conferences, and the Balkan Pact," by Mr. M. A. Coloyanni, dealing with the development of the Union; and a very comprehensive paper by Sir Eldon Manisty, which stresses the necessity for the modern naval officer to have a knowledge of international law and considers the effect of international law on modern naval practice. "Is International Law tending towards Clarification or Confusion?", by Mr. F. Temple Grey, rather in the nature of a protest (quite timely) against the undue length of text books on international law, and "What is War?" and "What is 'Aggressive War'?", by Master E. A. Jelf, are thought-provoking papers, and "Gathered Notes on the Peace of Westphalia of 1648", by Mr. Wyndham A. Bewes, consists in a useful consideration of the influence of Grotius, supported by a selection of quotations from writers, both contemporary and modern.

From the Canadian point of view, two of the papers should, perhaps, receive special notice. In his paper on "The Statute of Westminster and its effect," Mr. Registrar A. Stiebel does not think that the words of Section 3 of the Statute, which declares that the Parliament of a Dominion has full powers to make laws having extra-territorial operation, are strong

enough to make the section retrospective. This may raise an interesting situation in the future. Furthermore, the learned Registrar maintains that "The real limit to all laws having extra-territorial operations is that as they are only part of the law of the State which passes them, they will only be recognized by the courts of another country where the rules of Private International Law which form part of the law of such other country require such recognition." He suggests that the difficulty may in suitable cases be got over by Conventions, such as the draft Merchant Shipping Convention in the Report of the Imperial Conference of 1930, supplemented by legislation in the various parts of the Empire concerned. Dealing with the subject of *ultra vires*, Mr. Registrar Stiebel says, "As between the Dominion of Canada on the one hand and its Provinces on the other, questions of *ultra vires* will arise. . . . The powers of the Provinces are increased by Section 2 of the Statute of Westminster, but the powers of the Dominion have been increased not only by this section but also by the extra-territorial powers conferred by Section 3 and by the Dominion's power to request and consent to United Kingdom legislation in matters within the authority of the Provinces. Moreover, the general development of the Dominion vis-à-vis the United Kingdom, which has led to the Statute of Westminster, cannot fail to have its effect in the relationship between the Dominion and its Provinces and is bound to increase the need of laws which are within the legislative powers of the Dominion and to decrease the call for laws which a Provincial Legislature can make." It will be interesting to see how far this pronouncement will be justified in the future.

"The British Commonwealth Relations Conference at Toronto, 1933", by Prof. A. H. Charteris, contains much that is of concern to Canadians. A large portion of the discourse is devoted to relating views expressed by Canadians attending the conference. We do not know, however, by what right any representative Canadian should, as reported, have made so sweeping a statement as "that should the United States and Japan go to war on any pretext whatever Canada would be in that war on the side of the United States within twenty-four hours." And, who was the "Canadian Senator of Liberal Origin" who assented, adding, "always provided that the United States will have us"?

Prof. Charteris, we think, correctly expresses the situation, when he states, "It was evident that the highly understandable reluctance of Canada to enter into commitments outside the American continent was consistent with enthusiastic admiration for the British heritage which Canada enjoyed"; and as regards the much debated subject of appeal or no appeal to the Privy Council the learned professor also gives a very fair account of the different opinions prevailing in Canada upon the matter.

In addition to formal matters, the publication now under review contains as a frontispiece an excellent photograph of the Rt. Hon. Lord Hanworth, Master of the Rolls, who was elected President of the Grotius Society for the year 1933-1934, and was the honoured guest of the Canadian Bar Association in 1929.

F. R.

Winnipeg.

The Law of Citizenship in the United States. By Luella Gettys, Ph. D. Chicago; University of Chicago Press, 1934. Price, \$3.00.

Professor Quincey Wright in his foreword to this book points out that in studying the law of citizenship in the United States reference must be had not only to international law and treaties, but also to the position assumed by the United States in diplomatic correspondence as well as to the relevant body of American municipal law. The latter finds expression not only in legislation but in case law and administrative decisions—truly a mixed company and one in no wise reflecting Heaven's first law. It is the author's purpose to submit this complex mass to a rigid analysis in order to reach the largest possible measure of coördination and cohesion.

Explaining that the term citizenship as used in her treatise is considered in its juridical sense only, the author would define the term as "Membership in a nation or state, and it is, moreover, regulated primarily by municipal law, each nation deciding for itself who its citizens, or subjects, shall be." This definition the author ostensibly derives from the opinions of the Court delivered in *Minor v. Happersett* (21 Wall. 162 at p. 165) and in *Wong Kim Ark* (169 U. S. 649 at p. 668); but to the reviewer it seems to be strikingly in accord with doctrine enunciated by Gentili in the sixteenth century. In the constitution of the United States as originally adopted there was no definition of the term 'citizen', and it was not supplied until 1868 when the Fourteenth Amendment was adopted. It is matter of history that the *Dred Scott* case (19 How. 393) furnished incentive for the Fourteenth Amendment, with its declaration that:—"All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the state wherein they reside." Miss Gettys reminds us that since this constitutional declaration "there has been no doubt as to the relative importance of the two citizenships." But she would have us know that it is possible for a person to be a citizen of the United States without possessing citizenship in one of the states, e. g., persons who reside in the District of Columbia or in certain of the territories of the United States, and those who, born abroad of American parents, continue to reside abroad. (Cf. *Prentiss v. Brennan*, 2 Blatch. 162 and *Hammerstein v. Lyne*, 200 Fed. 165). In dealing with citizenship by birth the author very lucidly expounds the rules of *jus soli* and *jus sanguinis* in the light of decided cases and legislation. Naturalization is treated exhaustively, both in its individual and collective aspects. Praise is also evoked by her exposition of the law governing the loss of citizenship and the problems that have, from time to time, presented themselves by reason of conflicting decisions of executive officials and the Courts under the American law of expatriation. In the concluding chapter of the work we are given to understand that in the administration of the American Law of Citizenship "no one policy has been followed uniformly or consistently, and that vagueness and uncertainty are not eliminated from the laws now in operation."

A careful examination of the work serves to convince the reader that Professor Wright has much support for his opinion that it is "unquestionably the most comprehensive treatment which has appeared on the subject of citizenship in the United States." It contains an excellent bibliography, in which the literature surrounding the subject is classified so as to serve convenience of reference. The index is of a kind that enhances the practical usefulness of the book.

CHARLES MORSE

Canadian Encyclopedic Digest. (Ontario Edition). Supplement covering the period from September 1st, 1932, to January 1st, 1934. Toronto: Burroughs & Co. (Eastern) Limited, 1934, 146-XII pages.

We are informed by the Publisher's Note that this supplementary volume to the invaluable work known to the profession as "C.E.D. Ont." does not purport to be cumulative, but is to be regarded as the initial issue of an annual series of supplements which will be consolidated every five or six years. The proper method for using the volume under notice here is to refer, in the first place, to any subject-matter in question as it appears in the main work, then to consult the Supplement for 1925-1932 and follow on to this particular work. In this way the whole field of Ontario case-law on any special subject may be conveniently examined.

The qualities which have made the main work indispensable to the profession are manifest throughout this supplementary volume.

C. M.

Ottawa
