

Louisiana Law Review

Volume 18 | Number 3

April 1958

INTERNATIONAL LAW OPINIONS. 3 Vols.
Selected and Annotated by Lord McNair.
Cambridge and New York: Cambridge University
Press, 1956. Vol. i: Peace. pp. xxvi, 380; Vol. II:
Peace. pp. vii, 415; Vol. III: War and Neutrality. pp.
viii, 436. Index. \$35.00.

David Lehman

Repository Citation

David Lehman, *INTERNATIONAL LAW OPINIONS. 3 Vols. Selected and Annotated by Lord McNair. Cambridge and New York: Cambridge University Press, 1956. Vol. i: Peace. pp. xxvi, 380; Vol. II: Peace. pp. vii, 415; Vol. III: War and Neutrality. pp. viii, 436. Index. \$35.00.*, 18 La. L. Rev. (1958)

Available at: <https://digitalcommons.law.lsu.edu/lalrev/vol18/iss3/12>

This Book Review is brought to you for free and open access by the Law Reviews and Journals at LSU Law Digital Commons. It has been accepted for inclusion in Louisiana Law Review by an authorized editor of LSU Law Digital Commons. For more information, please contact kayla.reed@law.lsu.edu.

Book Reviews

INTERNATIONAL LAW OPINIONS. 3 Vols. Selected and Annotated by Lord McNair. Cambridge and New York: Cambridge University Press, 1956. Vol. I: *Peace*. pp. xxvi, 380; Vol. II: *Peace*. pp. vii, 415; Vol. III: *War and Neutrality*. pp. viii, 436. Index. \$35.00.

Lord McNair in these three volumes traces the British practice of international law from the Seventeenth to the early Twentieth Centuries through the law reports or "opinions" of Crown legal advisors. With the exception of the subject of "Treaties" — covered in the author's *Law of Treaties: British Practice and Opinions* (1938) — the author has presented a "representative selection" of reports which cover the entire field of public international law. For the student of international law these previously unpublished reports provide valuable background for such well known and controversial cases as *Mortensen v. Peters*,¹ *Regina v. Anderson*,² *The Araunah*,³ *The Creole*,⁴ the *Trent* affair,⁵ the *Alabama*,⁶ *The Charkieh*⁷ and others. Although many of the reports are only of historical interest, they represent in their full scope the contemporary position of Great Britain on questions of international law.

Outside of multipartite treaties, the practice of governments is the main source of international law. In a majority of the cases, the advice of legal officers determines the action a nation takes on international issues. The author is careful to point out, however, that the opinions of legal advisors are not the law but expressions of beliefs as to what the law is. As a source of the law, therefore, reports of this kind offer a certain objectivity with respect to the law which, as the author states, "resemble judgements, not the arguments of the pleader."

1. VIII Sess. Cas. 93 (High Court of Justiciary, Scotland, 1906).

2. L.R. 1 C.C.R. 161, 38 L.J.M.C. 12, 19 L.T. 400, 17 W.R. 208 (1868).

3. Treaty of Washington, Feb. 29, 1892).

4. Sen. Ex. Doc. 103, 34th Cong., 1st Sess. 242-45 (Bates, Umpire, Convention Between the United States and Great Britain); 4 MOORE, INTERNATIONAL ARBITRATIONS 4375; 2 MOORE, INTERNATIONAL LAW DIGEST 358 (1906); FENWICK, CASES 302 (1853).

5. 7 MOORE, INTERNATIONAL LAW DIGEST 768, § 1265 (1906).

6. The Alabama Claims, Ex. Doc. 1, 42d Cong., 3d Sess. (1871) (United States and Great Britain Claims Arbitration, 1872, 4 Papers Relating to the Treaty of Washington of 1871).

7. L.R. 4 A. & E. 59 (1873); FENWICK, CASES 38 (1873); 42 L.J. Ad. 70, 29 L.T. 404, 22 W.R. 63, 2 Asp. M.C. 121 (1873).

This collection of reports illustrates particularly well two misconceptions of the role of legal principles in international relations. To those who underestimate the importance of law in the relations between states, it points out the reliance of foreign offices on legal principles in their day to day conduct of international affairs. This is to say that in those matters that do not conflict with the vital interest of states, which constitute the great bulk of the business of foreign offices, legal principles can and do determine national action. To those who overemphasize the role of law, the author is careful to warn that the advice given by legal officers is not heeded on all occasions. On those international issues where law conflicts with policy, legal principles may be shaped to fit policy or disregarded altogether. Objectivity in defining the law in a decentralized international order is difficult at best, even for the dispassionate British legal officer.

Lord McNair has provided in this work an invaluable addition to the printed sources of international law.

*David Lehman**

SELECTED WRITINGS ON EVIDENCE AND TRIAL, by Association of American Law Schools (William T. Fryer, ed.). West Publishing Co., St. Paul, 1957. Pp. 1232. \$10.00.

This work is a valuable addition to the series of readings in selected areas of the law which have been sponsored by the Association of American Law Schools through the years.

The busy trial lawyer, appellate counsel, judge, student and law professor, will find this work a convenient source book for trial admissibility questions, and in the preparation of briefs on critical evidentiary issues. It is no overstatement to say its value to the practitioner will be unique.

The objectives of the publication are manifold. Some of them have been succinctly noted by Dean Mason Ladd:

“For the benefit of the legal profession, as well as to assist law students and teachers to make better use of periodical references, the Association of American Law Schools is making available Selected Writings on the Law of Evidence

*Instructor in Government, Valparaiso University; Research Assistant at the Center for the Study of American Foreign Policy, The University of Chicago.