

FOREWORD

AT this time when the world is already knit together by a network of treaties, and is daily becoming more so—treaties which deal with almost every conceivable subject of international interest from the migration of birds to the renunciation of war,—a scientific study such as Mr. Tobin has here given us will be most helpful not only to students, teachers, and text writers, but also to diplomats, foreign office officials, courts of justice, arbitrators, and indeed all persons or organizations who or which have to do with the interpretation or application of treaties.

In the actual operation of the complex treaty system as we have it today, an increasing variety of controversies between states is inevitable. They relate to the validity of treaties, the conditions under which they are binding on the parties, the date when they come into force, the effect of reservations, modes of interpretation, the rights and obligations of third states, the relation of posterior treaties to earlier ones, the effect of war, of political, territorial, and other changes upon them, the modes by which they are *ipso facto* terminated, and the ways by which a party may legally withdraw and free itself by unilateral action from the obligations which it has assumed. Any one of these questions and others not here mentioned might be made the subject of elaborate investigation and report.

Indeed there is an urgent need at this time for a general survey of the whole treaty system and a "codification" of the rules of international law and practice so far as there are any, which should be agreed upon by the nations as applicable in cases of controversy involving such questions as those mentioned above. Draft codes prepared by Field, Bluntschli, Fiore, Liszt, the Institute of International Law, and others including the Havana Convention of 1928 on

Treaties have proposed various rules dealing with these subjects, and the Harvard Research in International Law is now devoting itself to the preparation of a draft convention on the subject.

Among the questions concerning which controversies are most prolific and concerning which practice and juristic opinion are widely divergent are those relative to the conditions under which treaties are automatically terminated or may be terminated by action of the parties. It is with this particular aspect of the general subject that Mr. Tobin deals, and he does so in a thorough, objective and scientific manner. He examines in turn both the doctrine and the practice regarding the effect of war on multipartite treaties, termination by unilateral denunciation and termination by agreement of the parties through the conclusion of a new and superseding treaty, drawing such conclusions in each case as the practice seems to justify or which reason suggests. Incidentally he examines various related questions such as that involving the doctrine of the "separability" of treaty provisions. Altogether his work contains a wealth of facts relative to the teachings of publicists, and the practice of states in so far as they bear upon the termination of treaties, and as such it is a valuable contribution to the literature of treaty law and history.

Apart from its historical and scientific interest, this work should be of distinct practical utility to draftsmen of treaties, codifiers of treaty law, and indeed to all who are charged in any way with the interpretation and application of treaties. It is to be hoped that it will be followed by other studies of a similar scope and character dealing with other aspects of treaty law and practice upon which more light is much needed.

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