national consequences of dual nationality, that 'dual nationals should focus their political activities in the [S]tate of residence, and generally should vote only there', and, 'dual nationals should generally surrender other nationalities before assuming policy-level positions in a national government'. Uncertainty remains as to the definition of a genuine link.

RUTH DONNER

The World Court in Action: Judging Among the Nations By H MEYER [New York, Oxford: Rowman and Littlefield Publishers, Inc, 2002. xiv + 309 pp. ISBN 0-7435-0923-0, $75.00]

The author's inspiration for writing this book originates in former President Reagan's instruction in October 1985 to terminate the Truman Declaration of August 1946 giving consent to institute proceedings, on the basis of reciprocity, before the ICJ under the Optional Clause (Article 36 paragraph 2 of the Statute). This was a consequence of the American government's refusal to defend the legality of its activities in Nicaragua. In addition, the apparent lack at that time of American lawyers' knowledge of international law issues struck the author and enticed him to write a book on the Court for laymen and to eliminate public ignorance about the Court and its history. The book reads like a novel.

Although the book has been reviewed before in detail ((2002) 43 Santa Clara Law Review 318–34), this reviewer would like to add an additional feature of the book, not mentioned in that review. The book contains a wealth of sources and suggestions for further study, centred around the eighteen chapters (235–59) and a very useful chronology of events which enables the reader to better understand the evolution of events (261–98). As such it comes closer to the scientific approach undertaken by Dr Pomerance virtually on the same topic entitled *The United States and the World Court as a Supreme Court of the Nations: Dreams, Illusions and Disillusions* (The Hague M Nijhoff Publishers 1996). In this connection, one could agree with the criticism expressed in the above-mentioned review that the subtitle is somewhat misleading. (review, loc cit at 320). A subtitle closer to the intentions of the author would have been 'Judging Our Nation' as the author indeed critically appraises the American historical roots and developments, clearly not shunning the ups and downs of the attempts to reach out for a system of peaceful settlement of disputes on a global scale in the form of a Supreme Court of Nations.

Serious attempts in this regard started in the late nineteenth century inter alia through the organization of the so-called Lake Mohonk conferences, where peace activists and other supporters of international arbitration combined their efforts. Unexpected support from the Russian Czar Nicholas II galvanized the idea which led to the Hague Conferences of the1899 and 1907 and the establishment of the Permanent Court of Arbitration in 1899, which functions independently from the World Court. The author correctly observes that the Hague Convention for the Pacific Settlement of Disputes does not contain a firm commitment to arbitrate (Article XL) and that the US Senate would be free to veto US participation in individual cases.

The author, in the historical overview of the book (chapters 1–7), makes a serious effort to illustrate the influence of the American domestic system on the selection of the judges for the PCIJ (41–2) and ICJ (88–9) based on the model of the US Congress. He also succinctly indicates the formal and material differences in competencies between the two courts.

He demonstrates the controversial roles which some administration officials and senators played in attempts to downplay the effect of the Optional Clause to the extent that the compulsory jurisdiction of the Court should not extent to matters which are essentially within the domestic jurisdiction of the United States *as determined by the United States* (97).

This so-called political question doctrine (L Henkin 'Is there a Political Question Doctrine?' (1976) 85 Yale LJ 597, at 622; G Scott and K Csajko 'Compulsory Jurisdiction and Defiance in the World Court: a Comparison of the PCIJ and the ICJ' (1988) 16 Denver J Int'l L and Policy (no 2/3) 377–92) is still reverberating not only in political decisions, but also reflects the American position recently taken in proceedings before the ICJ relating to Article 36 of the Vienna

Convention on Consular Relations (*Paragay v United States*, *Provisional Measures, Order dated 9 April 1998*; Agora: Breard, (1998) 92 AJIL (no 4), at 705) followed by the *LaGrand case (Germany v United States, Judgment, 27 June 2001*; (2002) 96 AJIL (no 1), at 218) where the United States defied the ICJ's provisional measures orders. This despite statements from the US Supreme Court that courts should give respectful consideration to the interpretation of an international treaty by an international court with the jurisdiction to interpret it (523 US, 371, at 375 (1998)).

Subsequently, the Oklahoma Court of Criminal Appeals in September 2001 stayed the execution of a Mexican national. This inspired Mexico to institute proceedings on 9 January 2003 against the United States regarding fifty-four nationals on death row in the United States. The ICJ requested the indication of provisional measures on 5 February 2003, but in its counter-memorial of 3 November 2003, the United States once more seems to recamp on its previous position (chapter 3, the Court lacks jurisdiction to decide many of Mexico's claims), defying paragraph 38 of the Order. In its judgment dated 31 March (*Avena and others v USA*) the Court again dismissed the US claim of lack of jurisdiction (loc cit paras 37, 40).

Chapters 5 (PCIJ) and 8–18 (ICJ) portray in easy understandable language the whole gamut of the World Court's activities, up to the Advisory Opinion on the Legality of Nuclear Weapons (1996).

The author, when applicable, links similar issues before the two courts. He exposes the negative impact on the image of the Court of the 'tie-break' of President Spender in the case *South Africa v Liberia/Ethiopia* dated 18 July 1966, where these two countries were denied *locus standi* (145–7).

Dr Meyer correctly concluded that the ICJ's judgment in the Nicaragua case did contribute to a final settlement of the dispute in September 1991 (183–6). He touches *in passim* on a very contemporary challenge for the future of international law. Upon the refusal by the United States to recognize the judgment, the Security Council attempted to adopt measures to give effect to the judgment. The United States subsequently vetoed twice a resolution on the topic, but no other member raised the Charter requirement that a party to a dispute shall not participate in voting on a matter to which it is a party (Article 27 paragraph 3 *in fine*). Does this pattern of behaviour form part of the hegemonic position of the United States? (see M Beyers and G Nolte *United States Hegemony and the Foundations of International Law* (Cambridge CUP 2003).

In chapter 15 the author touches on the separate but complementary functions of the Court and the Security Council. The title 'Court versus Council' therefore seems to put the two principal organs in an adversarial position, while the author himself acknowledges that the Court has ruled that action taken by Security Council does not preclude consideration by the Court of any legal aspects of the same question (196–7; *United States Diplomatic and Consular Staff in Tehran, USA v Iran*, ICJ Rep 1980, paragraph 40; see also R St Macdonald 'Changing Relations between the International Court of Justice and the Security Council of the United Nations' (1993) 31 Can YB Int'l L 3–32.).

This complementary relationship has increased over the last decade (see inter alia the cases *Cameroon v Nigeria, Provisional Measures* (1996); *Legality of the Use of Force, Yugoslavia v NATO, Provisional Measures, 1999*; *Armed Activities on the Territory of the Congo*, *1999–2001, 2002–* ; see on a particular aspect of this relationship C Gray 'The Use and Abuse of the International Court of Justice: Cases concerning the Use of Force after Nicaragua' (2003) 14 EJIL (no 5) 867–905).

The author's final assessment as to whether it was worth the trouble to establish the Court (ch 16 at 216), even if the United States would pursue the claim to immunity from its jurisdiction, should definitely be answered positively. The Court is busier than ever before, requiring amendments to its rules of procedure, leading to more efficient working methods.

If one were to make one criticism, the reader could have expected the discussion of a few important cases handed down around the turn of the Millennium, as the chronology ends with the *LaGrand* case in June 2001. Consequently, this reviewer considered it necessary to refer to a number of relevant cases where appropriate. But despite a few errors in the references, academic craftsmanship definitely does not have an age. Any reader should have respect for an author being able to write so clearly at such a mature age.

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