

INTERNATIONAL LAW

AS APPLIED BY
INTERNATIONAL COURTS AND TRIBUNALS

BY

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VOLUME II

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P R E F A C E

THIS Volume has grown out of Part Six of the first and second editions of *International Law as Applied by International Courts and Tribunals*. In an evolution over two decades, the final shape of this work has emerged:

Volume I is concerned with the rules governing six of the seven Fundamental Principles of International Law which are predominantly, if not exclusively, associated with the Law of Peace: Sovereignty, Consent, Recognition, Good Faith, International Responsibility and the Freedom of the Seas.¹

The rules underlying the seventh of these Fundamental Principles, the Principle of Self-Defence, are primarily connected with war and armed conflicts falling short of war and, therefore, are treated in this Volume.

Finally, the importance of international institutions and the related international case law has grown sufficiently to justify the expansion of Part Seven of the first and second editions of *International Law as Applied by International Courts and Tribunals* into a third Volume on *The Law of International Institutions*.

As mentioned on earlier occasions, the publication, on an unprecedented scale, of primary evidence of diplomatic and judicial material on the application of international law on the national level has relieved me of the burden of writing, in the form contemplated in 1945, companion treatises on International Law as Applied in British diplomatic practice and by British Courts. What remains to be done is the critical and comparative analysis of this raw material. In due course, I hope to do this in a companion volume on *International Law in Perspective*.

For the time being, the completion of *Volume Three* will claim the highest priority. To ensure its publication within the near future, I have obtained the co-operation as co-author in this task of my friend and colleague, Professor Bin Cheng of this Faculty.

¹ See, further, Vol. I, pp. 9-10, and *The Inductive Approach to International Law* (1965), p. 85 *et seq.*

At one time or another during the gestation over more than ten years, I had invaluable assistance—academic, critical, editorial and technical—in the preparation of the present Volume from a number of friends and colleagues in the Faculty of Laws of University College London and the London Institute of World Affairs: R. H. F. Austin, E. D. Brown, B. Cheng, L. C. Green, Margaret Homewood, Julie Ann Howard, Margaret Hurst, Hilde Jacobi, Roy Skwang Lee, F. Parkinson, M. Shuster, A. Sutton and Lily G. Taylor. To all of them I owe a considerable debt of gratitude.

Professor Stuyt of the Treaty Department of the Netherlands Foreign Ministry has kindly put at my disposal valuable material on the present status of the Hague Conventions of 1899 and 1907, and Miss U. M. Jones, of the Library of the Foreign Office, London, and Dr. V. Markevitch, of the International Committee of the Red Cross in Geneva, have been similarly helpful in relation to the Poison Gas Protocol of 1925 and the International Red Cross Conventions of 1949. It was only on this basis of greatly appreciated assistance that Mr. Brown has been able to prepare, with accustomed skill, the charts forming Appendices 1–3 to the text of this Volume.

The Selected Bibliography on The Law of Armed Conflict is the joint work of Professor Cheng, Mr. Austin and Mr. Brown, to put their names in the chronological order of their association with this self-denying work.

While the two last-named colleagues also shared the burden of reading the proofs, Mr. Brown shouldered in addition the work of preparing the tables of cases and treaties, the index of persons and the subject index. They are telling evidence of his mastery of a diffuse and complex subject.

During the time when, from 1953 to 1962, I served as Rapporteur of the International Committee of the International Law Association on the Charter of the United Nations, I received a number of stimulating comments on reports relevant in the context of this book from other members of the Committee and during the Conference discussions. It may be permissible to single out at least two of these friends and colleagues whose advice, I know for certain, affected my presentation of some of these issues in this Volume: Professor E. Castrén and Professor Myers S. McDougal.

I am also greatly obliged to the Editors of a considerable number of periodicals for their freely granted permission to incorporate in this Volume portions of papers published there in their first versions.

The individual contributions and the places of first publication are fully listed in Section B of the Selected Bibliography at the end of this Volume.

Finally, as on previous occasions, the co-operation I have received from the publishers and printers has been exemplary.

G. S.

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