

# INTERNATIONAL LAW REPORTS

Volume

22

EDITED

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## PREFACE

THE present volume, which covers the year 1955, occupies over one thousand pages and is the largest issue of the *International Law Reports* published so far. The Advisory Committee decided not to proceed with the suggestion to publish this volume in two parts. Such a departure, while in keeping with the extended scope of the *International Law Reports*, would have added substantially to the cost to subscribers, and would have entailed some inconvenience in the matter of the Tables of Cases and Classification and the Index.

There are a number of factors which have been responsible for the enlargement of the size of the *International Law Reports*. In the first instance, apart from some isolated cases, the Editor has adhered to the policy of publishing verbatim reports of decisions wherever relevant. Secondly, the present volume includes reports from Italy for the years 1953 and 1954 which it was not possible to include in the previous volumes. I am much indebted to Dr. Luigi Citarella for having so ably undertaken that exacting task. Thirdly, the present volume continues the policy of including in the *International Law Reports* certain subjects which, when the *Annual Digest of Public International Law Cases* first appeared, might have been considered to be outside the scope of international law. Thus on pp. 705-737 there will be found a number of cases relating to the interpretation and application of the Articles of Agreement of the International Monetary Fund. These cases, in addition to supplying an interesting example of the legal regulation of international co-operation in a field of growing importance, illustrate a change, by virtue of the Agreement, in international practice in the matter of recognition of foreign exchange control regulations and of the traditional right of a State to regulate its own currency. I am deeply indebted to Dr. Joseph Gold, of the staff of the International Monetary Fund, for enriching the *International Law Reports* with reports of these cases. Similarly, the present volume includes a number of decisions of the Court of the European Coal and Steel Community. Although these decisions, ably reported and commented upon by Mr. D. G. Valentine, touch only incidentally upon general questions of international law as commonly understood, they are a significant example of legal adjudication, not restricted to sovereign States, by an international tribunal administering a body of rules which are not only of an international but also of what many believe to be a supra-national character. I have also continued the policy of reproducing, with the devoted help

of M. Jacques Lemoine, the Judgments of the Administrative Tribunals of the United Nations and the International Labour Organization. These Judgments are concerned with the rights and obligations of international civil servants and the international organizations which employ them. After taking advice from many quarters I reached the conclusion that they are of sufficient interest for what may be described as constitutional international law to warrant inclusion. Finally, the present volume includes a large number of cases decided by conciliation commissions, such as the Anglo-Italian, the Franco-Italian and the United States-Italian Conciliation Commissions. Although conciliation commissions are not, in general, confined to the application of strict rules of international law, they constantly apply international law as one of the principal factors—occasionally the only factor—underlying their decisions. Mr. A. B. Lyons, in addition to assisting me in various other ways, such as the preparation of the report of the decision of the United Nations Tribunal for Libya, assumed responsibility for preparing reports of the decisions of these Commissions. I am much indebted to him for his help. I also wish to express my warm thanks to Professor André Gros, Principal Legal Adviser to the French Foreign Office, for putting at my disposal the decisions of the Franco-Italian Conciliation Commission, and to Mr. Michael Adams, British Agent before the Anglo-Italian Conciliation Commission, for assisting me in the same way.

The List of Contributors follows this Preface. Without referring to individual contributors, I must—as in the past—stress the fact that such credit as may be claimed for the publication of the *International Law Reports* belongs to them and is due to their selfless efforts. This is so even in the case of those countries with regard to which patient search by the contributor has not succeeded in discovering any cases qualifying for inclusion. I am particularly grateful to those contributors who have borne with understanding the negative decision of the Editor to that effect. I wish also to express my special thanks to Dr. F. Honig who, in addition to assuming responsibility for the contribution from a number of countries, has given indispensable assistance by translating a great number of them—as, for instance, in the case of the contribution from France, which he has shared with Dr. Muracciole. I am indebted to Professor Hans Schlochauer, of the University of Frankfurt, for his advice with regard to the decisions from Germany. I am also obliged to Dr. J. F. Lalive for the case from Jordan.

The increase in the size and the scope of the *International Law Reports*—as, indeed, its continuation—would not have

been possible without the assistance of the Ford Foundation, and it is with sincere satisfaction that I am able to give expression to the gratitude which the Advisory Committee and the Editor owe to the Trustees of the Ford Foundation. It is largely owing to their help that it has been found possible to expand this publication from one which covered the years 1919 to 1922 in one volume of five hundred pages into a publication which—as does the present volume—devotes over a thousand pages to one year of national and international judicial activity. We are also deeply indebted to the Trustees of the International Law Fund for their continued assistance.

As in past years, I have been able to rely on the assistance and advice, in every respect, of Lord McNair, the Chairman of the Advisory Committee. I am very deeply indebted to him.

Mrs. Gladys Lyons, B.Sc.(Econ.), has continued to give her expert and conscientious assistance by seeing through the press a volume of this size. Mr. A. B. Lyons, M.A., LL.B., in addition to the help to which I have already referred, undertook the preparation of the Index. Mrs. E. E. Jansen, in addition to the exacting work of dealing with the manuscripts, has given valuable help by compiling the Tables of Cases and rendering secretarial assistance. I am very grateful to all of them.

Finally, I wish to place on record my sense of obligation to Messrs. Butterworth & Co., and their printers and compositors, for their unfailing co-operation and courtesy.

H. LAUTERPACHT

THE PEACE PALACE,  
THE HAGUE.

*September 1958.*

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# LIST OF ABBREVIATIONS

OF TITLES OF COLLECTIONS OF DECISIONS, LAW REPORTS, PERIODICALS, ETC., QUOTED IN THE TEXT

A.C.	=British House of Lords and Judicial Committee of the Privy Council.
A.I.R.	=The All India Reporter.
App.D.C.	=United States Court of Appeals for the District of Columbia Circuit Reports.
App.Div.	=Supreme Court Reports (New York), Appellate Division.
Avi.	=Aviation Cases (United States).
BGHZ	=Entscheidungen des Bundesgerichtshofes in Zivilsachen (Germany).
B Verf. G.	=Bundesverfassungsgericht (Germany).
Cal.App.	=Reports of Cases Determined in the District Courts of Appeal of the State of California (United States).
C.C.P.A.	=United States Court of Customs and Patent Appeals Reports.
Ch. (or Ch.D.)	=Chancery Division of the English High Court of Justice.
Clunet	=Clunet, Journal du Droit International.
C.M.R.	=Court Martial Reports (United States).
Ct. Cl.	=Court of Claims Reports (United States).
Dalloz et Sirey	=Recueils Dalloz et Sirey de doctrine, de jurisprudence et de législation.
D.L.R.	=Dominion Law Reports (Canada).
E.A.C.A.	=East African Court of Appeal.
F. (or Fed.)	=Federal Reporter (United States).
F. 2d	=Federal Reporter (Second Series).
F. Supp.	=Federal Supplement (United States).
I.C.J. Reports	=International Court of Justice; Reports of Judgments, Advisory Opinions and Orders.
I.R.	=Irish Reports.
JB	=Juristische Blätter (Austria).
JZ	=Juristenzeitung (Germany).
L.Ed.	=Supreme Court Reporter, Lawyers' Edition (United States).
L.N.T.S.	=League of Nations Treaty Series.
L.R.	=Law Reports (England).
MDR	=Monatsschrift für Deutsches Recht.
N.J.	=Nederlandse Jurisprudentie (Holland).
NJW	=Neue Juristische Wochenschrift (Germany).



N.Y.S[upp].	=New York Supplement.
ÖJZ	=Österreichische Juristenzeitung.
P.C.I.J.	=Publications of the Permanent Court of International Justice: Reports of Judgments, Advisory Opinions, Orders, and Other Acts and Documents.
Q.B. (or Q.B.D.)	=Queen's Bench Division of the English High Court of Justice.
RGZ	=Entscheidungen des Reichsgerichts in Zivilsachen.
S.C.J.	=Supreme Court of Justice (India).
S.C.R.	=Supreme Court Reports (India).
Sup.Ct.	=Supreme Court (United States).
Tijdschrift	=Nederlands Tijdschrift voor Internationaal Recht (Netherlands International Law Review).
U.N.T.S.	=United Nations Treaty Series.
U.S.	=United States Reporter (Supreme Court).
U.S. & C.Av.R.	=United States and Canadian Aviation Reports.
U.S.C.M.A.	=United States Court of Military Appeals Reports.

# CLASSIFICATION

## PART I

### INTERNATIONAL LAW IN GENERAL

- I. NATURE AND BINDING FORCE.
- II. SOURCES. *See also* PART X, DISPUTES : A, I, ii, Arbitration : The Law Applied by Arbitral Tribunals.
- III. SUBJECTS OF INTERNATIONAL LAW. *See also* PART VI, THE INDIVIDUAL IN INTERNATIONAL LAW : A, In General ; *and* PART VIII, TREATIES : IX, Operation and Enforcement of Treaties.
- IV. RELATION TO MUNICIPAL LAW. *See also* PART VIII, TREATIES : IX, Operation and Enforcement of Treaties, Necessity for Municipal Legislation ; *and* PART VI, THE INDIVIDUAL IN INTERNATIONAL LAW : A, In General.
- V. INTERNATIONAL COMITY.
- VI. MISCELLANEOUS.

## PART II

### STATES AS INTERNATIONAL PERSONS

#### A. IN GENERAL

- I. THE BEGINNING OF STATE EXISTENCE. (For Recognition *see below*, D.)
- II. SOVEREIGNTY AND INDEPENDENCE—
  - i. In Foreign Relations. *See also below*, IV, Recognition of Acts of Foreign States and Governments ; PART IV, JURISDICTION ; *and* PART VIII, TREATIES : XII, Interpretation of Treaties, ii, Principles and Rules of Interpretation.
  - ii. In Matters of Domestic Jurisdiction.
  - iii. Conduct of Foreign Relations. Conclusiveness of Statements of the Executive.
  - iv. Waiver of Rights. Estoppel.
- III. EQUALITY OF STATES.
- IV. RECOGNITION OF ACTS OF FOREIGN STATES AND GOVERNMENTS. *See also below*, D, Recognition of States, Governments, Belligerency ; *and* PART IV, JURISDICTION : I, TERRITORIAL.
- V. CONTINUITY OF STATES. *See also below*, E, State Succession.
- VI. EXTINCTION OF STATES.

**B. COMPOSITE AND DEPENDENT STATES AND TERRITORIES****I. UNIONS OF STATES—**

- i. Federal States and Confederations.
- ii. Other Unions (including Customs Unions).

**II. BRITISH COMMONWEALTH OF NATIONS.****III. PROTECTED STATES AND PROTECTORATES. DEPENDENT STATES.****IV. MANDATED AND TRUST TERRITORIES—**

- i. Sovereignty over Mandated and Trust Territories. Status of Mandated and Trust Territories.
- ii. Rights and Duties of the Administering Authority.
- iii. Rights and Duties of the Supervisory Authority.
- iv. Equality of Opportunity.
- v. Nationality in Mandated and Trust Territories.
- vi. Other Matters.

**C. NEUTRALIZATION AND DEMILITARIZATION****D. RECOGNITION. *See also above, A, IV, Recognition of Acts of Foreign States and Governments; and PART IV, JURISDICTION: A, I, Territorial.***

- I. OF STATES.
- II. OF GOVERNMENTS.
- III. OF INSURGENCY.
- IV. OF BELLIGERENCY.
- V. OF ANNEXATION.
- VI. CONDITIONAL RECOGNITION.
- VII. IMPLIED RECOGNITION.
- VIII. WITHDRAWAL OF RECOGNITION.

**E. STATE SUCCESSION**

- I. SUCCESSION TO RIGHTS.
- II. SUCCESSION WITH REGARD TO CONTRACTUAL AND OTHER OBLIGATIONS, AND CONCESSIONS.
- III. THE PUBLIC DEBT. PENSIONS.
- IV. SUCCESSION WITH REGARD TO OBLIGATIONS FOR DELINQUENCIES (TORTS).
- V. RESPECT FOR PRIVATE RIGHTS.
- VI. UPON TERMINATION OF A REBELLION.
- VII. INTERNATIONAL CONVENTIONS.
- VIII. IN MATTERS OF ADMINISTRATION. OFFICIALS.
- IX. CONTINUITY OF THE LAW. JUDGMENTS OF COURTS. PENDING ACTIONS.
- X. IN MATTERS OF EXTRADITION.

**F. SUCCESSION OF GOVERNMENTS**

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**G. MISCELLANEOUS**

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  - iii. Cession. Plebiscite.
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- III. LOSS OF TERRITORIAL SOVEREIGNTY.
- IV. EFFECTS OF CHANGES OF SOVEREIGNTY. *See also* PART II, STATES AS INTERNATIONAL PERSONS: E, State Succession.
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- VI. INTERNATIONAL LEASES AND GRANTS IN PERPETUITY.
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- II. RIVERS—
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  - ii. Multi-national Rivers.
  - iii. International Rivers.
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  - iv. The Utilization of the Flow of Non-National and International Rivers.
- III. TERRITORIAL WATERS—
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  - ii. Breadth and Delimitation of the Maritime Belt. Base Lines. Islands. Subsoil of Territorial Waters.
  - iii. Jurisdiction in the Maritime Belt.
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  - v. Coasting Trade and Fisheries. *See also* PART IV, JURISDICTION: I, Territorial.
- IV. NATIONAL WATERS.
- V. CONTINENTAL SHELF.
- VI. STRAITS.
- VII. BAYS.
- VIII. INTERNATIONAL CANALS.
- IX. LAKES AND LAND-LOCKED SEAS.
- X. ISLANDS.
- XI. STATE SERVITUDES.
- XII. DEMILITARIZED ZONES.

#### C. MISCELLANEOUS

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- vi. Fisheries.
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- viii. Exemptions from and Restrictions upon Territorial Jurisdiction.
  - (a) Foreign States. *See also* PART II, STATES AS INTERNATIONAL PERSONS : A, II, Sovereignty and Independence : iii, Conduct of Foreign Relations. Conclusiveness of Statements of the Executive.
  - (b) Heads of Foreign States.
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  - (d) Foreign Armed Forces.
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- ii. For Enforcement of International Conventions. Slave Trade.
- iii. Visit, Search and Arrest by Men-of-War in Time of Peace.
- iv. The Law Governing the Flag. Ship's Papers.
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    - (d) Plea of Non-Discrimination against Foreigners. *See also* PART IV, JURISDICTION: A, I, Territorial, i, Expropriation of Alien Property.
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- II. RATE OF INTEREST. COMPOUND INTEREST.
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#### F. MISCELLANEOUS

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- A. INTERNATIONAL ORGANIZATION IN GENERAL
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  - I. LEGAL NATURE OF THE UNITED NATIONS. MEMBERSHIP.
  - II. THE GENERAL ASSEMBLY.
  - III. THE SECURITY COUNCIL.
  - IV. OTHER ORGANS OF THE UNITED NATIONS.
  - V. INTERPRETATION OF THE CHARTER OF THE UNITED NATIONS.