

PRINCIPLES OF
PUBLIC
INTERNATIONAL
LAW

BY

IAN BROWNLIE, Q.C., D.C.L., F.B.A.

THIRD EDITION

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THIRD EDITION

CLARENDON PRESS • OXFORD

1979

Oxford University Press, Walton Street, Oxford OX2 6DP

OXFORD LONDON GLASGOW
NEW YORK TORONTO MONTREAL WELLINGTON
NAIROBI DAR ES SALAAM CAPE TOWN
KUALA LUMPUR SINGAPORE JAKARTA HONG KONG TOKYO
DELHI BOMBAY CALCUTTA MADRAS KARACHI

*Published in the United States by
Oxford University Press, New York*

© IAN BROWNLIE, 1979

FIRST EDITION 1966
SECOND EDITION 1973
REPRINTED 1977
THIRD EDITION 1979

Russian edition of the second edition,
by Professor G. I. Tunkin,
Moscow, 1977.

British Library Cataloguing in Publication Data

Brownlie, Ian

Principles of public international law. — 3rd ed.

1. International law

I. Title

341 JX3091 . 79-41139

ISBN 0-19-876066-3

ISBN 0-19-876067-1

PRINTED IN GREAT BRITAIN
BY WILLIAM CLOWES & SONS LIMITED,
BECCLES AND LONDON

FROM THE PREFACE OF THE
SECOND EDITION

THE prime object remains that of the first edition: to present the subject matter in terms of law and legal technique, whilst making appropriate reference to the influence of policy and political conflicts. With the inclusion of new chapters the book provides a reasonably comprehensive account of the law of peace based upon the modern practice of states, the practice of organizations of states, and the decisions of international and municipal courts. In preparing the text reference has been made to available evidence of the practice of states generally. The writer has attempted to observe the professional standard which requires the recording of what is happening in the world at large and not merely what is pleasing to the eye. A true estimate of consensus or possibly emergent rules will not relate neatly to the view of any single state or group of states. Of course, in some areas of the law it is not possible to do more than to indicate the divergent tendencies.

A high proportion of the references are to sources and literature in English and French. In preparing a book of this kind I have been indebted to various useful contemporary sources and, in particular, the International Law Reports, edited by Mr. E. Lauterpacht, Q.C. The document reproduced at pp. 310-13 is taken from the same learned editor's *British Practice in International Law*, 1967, p. 58.

I am beholden to a number of friends and reviewers for criticisms and suggestions. Particular assistance came from Richard Baxter, Judge of the International Court of Justice (formerly of Harvard Law School), Professor K. Skubiszewski, of the Polish Academy of Sciences (formerly of the Adam Mickiewicz University, Poznań), Professor R. Y. Jennings, Q.C., of Cambridge University, and Dr. D. R. Harris, of Nottingham University. Of course, the text now presented remains my responsibility alone. Finally, I am grateful for the help and courtesy of the staff of the Clarendon Press. Neither the work for nor the publication price of the present book has been subsidised by any official source or private foundation.

I. B.

Oxford

4 September 1972

PREFACE TO THE THIRD EDITION

THE work has been revised to reflect recent developments in various areas of the law, including the law of the sea, state immunity, and the status of foreign investments. In certain areas, which have attracted more attention in recent years, the scale of treatment did not stand in need of revision for the reason that such areas as human rights and the law of the sea have been given wide coverage since the first edition of the book.

I am grateful to Professor F. G. Jacobs, University of London, for helpful suggestions relating to Chapter XXIV.

43 Fairfax Road,
Chiswick, W4 1EN.
12 June 1979

I. B.

ABBREVIATIONS

(of titles of books, etc., quoted in the text)

- Acta Scandinavica.* *Acta Scandinavica Juris Gentium* (Nordisk Tidsskrift for International Ret.).
- A.J.* *American Journal of International Law.*
- Ann. Digest.* *Annual Digest of Public International Law Cases.*
- Annuaire de l'Inst.* *Annuaire de l'Institut de droit international.*
- Annuaire français.* *Annuaire français de droit international.*
- A.S.I.L. Proceedings.* *Proceedings of the American Society of International Law.*
- Austral. Y.B.I.L.* *Australian Year Book of International Law.*
- B.F.S.P.* *British and Foreign State Papers.*
- Bishop.* Bishop, *International Law: Cases and Materials*, 3rd ed., 1971.
- Brierly.* Brierly, *The Law of Nations*, 6th ed., 1963, by Sir Humphrey Waldock.
- Briggs.* Briggs, *The Law of Nations: Cases, Documents and Notes*, 2nd ed., 1952.
- British Digest.* C. Parry (ed.), *A British Digest of International Law* (1965-).
- British Practice in I.L.* E. Lauterpacht (ed.), *British Practice in International Law.*
- Brownlie, Documents.* Brownlie (ed.), *Basic Documents in International Law*, 2nd ed., 1972.
- B.Y.* *British Year Book of International Law.*
- Camb. L.J.* *Cambridge Law Journal.*
- Canad. Yrbk.* *Canadian Yearbook of International Law.*
- Cmd., Cmnd.* United Kingdom, Command Papers.
- Colombos.* Colombos, *International Law of the Sea*, 6th ed., 1967.
- Curr. Leg. Problems.* *Current Legal Problems.*
- Gidel.* Gidel, *Le droit international public de la mer*, 3 vols.
- Green.* Green, *International Law Through the Cases*, 4th ed., 1979.
- Grot. Soc.* *Transactions of the Grotius Society.*
- Guggenheim.* Guggenheim, *Traité de droit international public*, 2 vols., 1953; Vol. I, 2nd ed., 1967.
- Hackworth.* Hackworth, *Digest of International Law*, 8 vols.
- Hague Court Reports.* Scott (ed.), *Hague Court Reports.*
- Hague Recueil.* *Recueil des cours de l'Académie de droit international.*
- Harv. L. R.* *Harvard Law Review.*
- Harv. Research.* *Research in International Law under the Auspices of the Harvard Law School.*
- Hudson, Cases.* *Cases and Other Materials on International Law*, 3rd ed., 1951.
- Hudson, Int. Legis.* Hudson (ed.), *International Legislation*, 9 vols.
- Hyde.* Hyde, *International Law Chiefly as Interpreted and Applied by the United States*, 3 vols., 2nd ed., 1945.
- I.C.J. Pleadings.* *International Court of Justice: Pleadings, Oral Arguments, Documents.*

- I.C.J. Reports. Reports of Judgments, Advisory Opinions and Orders of the International Court of Justice.
- I.C.L.Q. *International and Comparative Law Quarterly*.
- I.L.C. International Law Commission.
- I.L.Q. *International Law Quarterly*.
- Indian Journ. *Indian Journal of International Law*.
- Int. Conciliation. *International Conciliation*.
- Int. Leg. Materials. *International Legal Materials*.
- Int. L.R. International Law Reports (continuation of the *Annual Digest*).
- Int. Organization. *International Organization*.
- J.D.I. *Journal du droit international*.
- La Fontaine. La Fontaine, *Pasicrisie internationale*.
- La Pradelle and Politis. *Recueil des arbitrages internationaux*, 3 vols., 2nd ed., 1957.
- L.N.T.S. League of Nations Treaty Series.
- L.Q.R. *Law Quarterly Review*.
- McDougal and Burke. McDougal and Burke, *Public Order of the Oceans*.
- McNair, Opinions. McNair, *International Law Opinions*, 3 vols.
- Mod. L.R. *Modern Law Review*.
- Moore, Arbitrations. Moore, *History and Digest of the International Arbitrations to which the United States has been a Party*, 6 vols.
- Moore, Digest. Moore, *Digest of International Law*, 8 vols.
- Neths. Int. L.R. *Netherlands International Law Review (Nederlands tijdschrift voor international recht)*.
- O'Connell. O'Connell, *International Law*, 2 vols., 2nd ed., 1970.
- Oppenheim. Oppenheim, *International Law*, Vol. I, 8th ed., 1955; Vol. II, 7th ed., 1952.
- P.C.I.J. Publications of the Permanent Court of International Justice.
- R.D.I. (La Pradelle). *Revue de droit international* (Paris, ed. by La Pradelle).
- R.D.I.L.C. *Revue de droit international et de législation comparée* (Brussels).
- R.G.D.I.P. *Revue générale de droit international public* (Paris).
- R.I.A.A. United Nations, *Reports of International Awards*.
- Rousseau. Rousseau, *Droit international public*, 1953.
- Rousseau i, ii, iii. *Droit international public*, 3 vols., 1970-.
- Sørensen. Sørensen (ed.), *Manual of Public International Law* (1968).
- Treaty Series. *United Kingdom Treaty Series*.
- U.K. Contemp. Practice. E. Lauterpacht, *The Contemporary Practice of the United Kingdom in the Field of International Law*.
- U.N.T.S. United Nations Treaty Series.
- U.S. United States; or United States Supreme Court Reports.
- Whitman. Whitman, *Digest of International Law* (1963-).
- World Court Reports. Hudson, *World Court Reports*, 4 vols. (1934-43).
- Yrbk., I.L.C. United Nations, *Yearbook of the International Law Commission*.
- Z.a.ö. R.u.V. *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht*.

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