

SELF-DEFENSE IN INTERNATIONAL LAW

BY

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M.A., LL.B.(Cantab.), Ph.D.(Manchester)
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BOOKS THAT MATTER

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PREFACE

THIS work was written in the belief that the right of self-defence was capable of legal analysis and that in the present state of international law such an analysis is essential. Where, as in the United Nations Charter, legal limitations are placed upon the individual state's right to resort to force, and the right of self-defence stands as the main, if not the only exception to the general prohibition of individual force, the scope and meaning of the exception become of paramount importance if the general prohibition is to have normative effect. State practice cannot be relied upon to give a consistent, logical explanation of the development of the right of self-defence. At the same time it has been thought preferable to deal with state practice, pointing out the anomalies and inconsistencies as they occur, rather than to expound a perfectly rational explanation of the right of self-defence based upon the premisses of fundamental rights but having all too vague a connection with international law as it has been developed in the practice of states.

Two occurrences of considerable impact upon the United Nations Organization, and upon this work, took place as the book was going to press; these were the Anglo-French intervention in Egypt in October, 1956, and the Soviet Union's intervention in Hungary in the same month. References to these had, of necessity, to be made; yet, in so doing, the writer is conscious of the contemporary nature of the sources upon which he relies, and also the lack of time for reflection upon the implications of these occurrences.

Acknowledgment must be made to the encouragement and advice of Professor B. A. Wortley of Manchester University, under whose guidance this work was prepared; to Dr. G. Schwarzenberger of University College, London, for valuable advice and criticism; to the Oxford University Press and the Royal Institute of International Affairs, who kindly permitted me to reproduce in Chapter X the gist of an article in the *British Year Book of International Law*, 1955-6; and to Miss R. Margeson, who has so patiently discharged the burden of copying the manuscript and the many alterations at successive stages.

Finally I should like to express my thanks for the co-operation of the Manchester University Press and for the generous contribution of Manchester University towards the cost of publication.

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1953	U.S.A./Korea Treaty; <i>A.J.</i> , Vol. 48 (1954), Supp., 147	224 n.
1954	South-East Asia Collective Defence Treaty; Dept. State Bull., Vol. 31 (1954), 393	224 n., 228
1955	Treaty of Friendship, Co-operation and Mutual Assistance (Warsaw); <i>A.J.</i> , Vol. 49 (1955), Supp., 194	16, 227, 233, 240

ABBREVIATIONS

- A.J.* *American Journal of International Law.*
Annuaire. Annuaire de l'Institut de Droit International.
A.D. *Annual Digest of Public International Law Cases.*
A.C. *Appeal Cases* (Great Britain), 1891- .
Brit. and For. State Papers. British and Foreign State Papers, 1812- .
BYBIL. *British Yearbook of International Law.*
C.L.J. *Cambridge Law Journal.*
Co. Rep. Coke's Reports (Great Britain), 1572-1616.
Cmd. Command Papers, Cmd. 1- (1919-).
Cranch. United States, Supreme Court Reports, 1801-15.
De G.F. & J. De Gex, Fisher & Jones's Reports, Chancery, 4 vols., 1859-1862.
Documents. Royal Institute of International Affairs, Documents.
Dods. Dodson's Admiralty Reports (G.B.), 1811-22.
For. Rel. Foreign Relations of the United States, 1870- .
H.L.R. *Harvard Law Review.*
Hawk. P.C. Hawkin's Pleas of the Crown, 2 vols.
Int. Arb. J. B. Moore's *International Arbitrations*, 6 vols. (1906).
Int. & Comp. L.Q. *International and Comparative Law Quarterly.*
Int. Concil. *International Conciliation.*
I.C.J. International Court of Justice.
I.L.A. Reports. Reports of the Conferences of the International Law Association.
I.L.C. International Law Commission.
I.L.Q. *International Law Quarterly.*
L.Q.R. *Law Quarterly Review.*
L.R. Law Reports.
L.R.P.C. Law Reports, Privy Council, 6 vols., 1865-1875.
L. of N. League of Nations.
L.N.T.S. League of Nations Treaty Series.
Lofft. Lofft's Reports, King's Bench, 1 vol. 1772-1774.
Ld. Raym. Lord Raymond's Reports, Kings Bench & Common Pleas, 3 vols., 1694-1732.
Malloy. Malloy's Treaties.
Martens N.R.G. Martens, *Nouveau Recueil Générale de Traités*, 2nd Series.
Moore, *Dig.* *Digest of International Law*, etc., 6 vols. (1906).
Moore, *Int. Arb.* History and Digest of International Arbitrations to which the United States has been a party, etc., 6 vols. (1898).
Off. Journal. Official Journal of the League of Nations.
Off. Rec. Official Records.
Off. Rec. G.A. Official Records of the General Assembly.
Off. Rec. S.C. Official Records of the Security Council.
Parl. Debates (H.C.). Parliamentary Debates (Hansard), House of Commons Official Report.

- Parl. Debates (H.L.). Parliamentary Debates (Hansard), House of Lords Official Report.
- P.C.I.J. Permanent Court of International Justice.
- Proceedings A.S. Proceedings of the American Society of International Law.
- Q.B.D. Law Reports, Queen's Bench Division.
- R.C. *Recueil des Cours de l'Académie de Droit International*.
- Repertory. Repertory of Practice of the United Nations Organs, vols. 1-5, 1955.
- R.G.D.I.P. *Revue Générale de Droit International*.
- Rob.S. Robinson's Admiralty Reports (G.B.), 6 vols., 1798-1808.
- R.I.I.A. Royal Institute of International Affairs.
- Sc.L.T. *Scottish Law Times*.
- S.G. Secretary-General of the United Nations.
- S.C. Security Council.
- Stat. United States Statutes at Large.
- T.L.R. Times Law Reports.
- Trans. Grotius Soc.* Transactions of the Grotius Society.
- Treaty Series. United Kingdom Treaty Series, 1892- .
- T.A.M. *Recueil des Décisions des Tribunaux Arbitraux Mixtes*, 9 vols., 1922-1930.
- U.N. United Nations.
- UNCIO. *United Nations Conference on International Organization*, San Francisco, 1945.
- UNRIAA. United Nations Reports of International Arbitral Awards, 6 vols., 1948-1956.
- U.N.T.S. United Nations Treaty Series.
- U.S. Treaty. United States Treaty Series.
- Ven. Arb. Ralston & Doyle, Venezuelan Arbitrations of 1903, Washington, 1904.
- Wheaton. Wheaton, United States Supreme Court Reports, 1816-27.
- Yale L.J. *Yale Law Journal*.

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