

THE  
AMERICAN JOURNAL  
OF  
INTERNATIONAL LAW



VOLUME 56

1962

PUBLISHED BY

THE AMERICAN SOCIETY OF INTERNATIONAL LAW

(Incorporated by Act of Congress, Sept. 20, 1950)

PUBLICATION OFFICE:  
LANCASTER PRESS, INC.  
LANCASTER, PA.

EXECUTIVE AND EDITORIAL OFFICE:  
2223 MASSACHUSETTS AVE., N.W.  
WASHINGTON 8, D. C.

Copyright © 1962 by The American Society of International Law

## BOARD OF EDITORS

### *Editor-in-Chief*

WILLIAM W. BISHOP, JR., University of Michigan Law School

RICHARD R. BAXTER  
Harvard Law School

HERBERT W. BRIGGS  
Cornell University

HARDY C. DILLARD  
Columbia University

ALWYN V. FREEMAN  
Encino, California

LEO GROSS  
Fletcher School of Law and Diplomacy

JOHN N. HAZARD  
Columbia University

JAMES NEVINS HYDE  
New York, N. Y.

OLIVER J. LISSITZYN  
Columbia University

BRUNSON MACCHESNEY  
Northwestern University Law School

MYRES S. MCDUGAL  
Yale Law School

COVEY OLIVER  
University of Pennsylvania

OSCAR SCHACHTER  
New York, N. Y.

LOUIS B. SOHN  
Harvard Law School

ERIC STEIN  
University of Michigan Law School

JOHN R. STEVENSON  
New York, N. Y.

ROBERT R. WILSON  
Duke University

RICHARD YOUNG  
Van Hornesville, N. Y.

### *Honorary Editors*

PHILIP MARSHALL BROWN  
Washington, D. C.

WILLIAM C. DENNIS \*  
Richmond, Indiana

CHARLES G. FENWICK  
Washington, D. C.

HANS KELSEN  
University of California

JOSEF L. KUNZ  
University of Toledo

PITMAN B. POTTER  
American University

JOHN B. WHITTON  
Princeton University

QUINCY WRIGHT  
Columbia University

### *Secretary of the Board of Editors*

ELEANOR H. FINCH

The object of The American Society of International Law is to foster the study of international law and to promote the establishment and maintenance of international relations on the basis of law and justice. For this purpose it co-operates with similar societies in this and other countries.

The views expressed in the articles, editorial comments, book reviews and notes, and other contributions which appear in the JOURNAL are those of the individual authors and are not to be taken as representing the views of the Board of Editors or of The American Society of International Law.

The JOURNAL is published quarterly and is supplied to all members of The American Society of International Law without extra charge. The annual subscription to non-members of the Society is \$15.00 and includes subscription to the *Proceedings* of the Society. Single numbers of Volumes 55 and 56 of the JOURNAL will be supplied at \$3.50 per copy; other available back numbers at \$2.50 per copy.

Subscriptions, orders for back numbers, correspondence with reference to the JOURNAL, manuscripts, and books for review should be sent to the Secretary of the Board of Editors, 2223 Massachusetts Avenue, N.W., Washington 8, D. C.

\* Deceased September 14, 1962.

# AMERICAN JOURNAL OF INTERNATIONAL LAW

VOL. 56

CONTENTS

1962

[No. 1, January, 1962, pp. 1-356; No. 2, April, 1962, pp. 357-616; No. 3, July, 1962, pp. 617-950; No. 4, October, 1962, pp. 951-1171]

	PAGE
DAG HAMMARSKJOLD AND THE RELATION OF LAW TO POLITICS. <i>Oscar Schachter</i> ..	1
MR. HAMMARSKJOLD, THE CHARTER LAW AND THE FUTURE RÔLE OF THE UNITED NATIONS SECRETARY GENERAL. <i>Eric Stein</i> .....	9
SOME OBSERVATIONS ON THE INTERNATIONAL COURT OF JUSTICE. <i>Leo Gross</i> .....	33
THE PROPER LAW OF LOANS CONCLUDED BY INTERNATIONAL PERSONS: A RESTATEMENT AND A FORECAST. <i>Georges R. Delaume</i> .....	63
SOME ASPECTS OF THE VIENNA CONFERENCE ON DIPLOMATIC INTERCOURSE AND IMMUNITIES. <i>Ernest L. Kerley</i> .....	88
BULGARIA INVOKES THE CONNALLY AMENDMENT. <i>Leo Gross</i> .....	357
RÔLE OF THE NEW ASIAN-AFRICAN COUNTRIES IN THE PRESENT INTERNATIONAL LEGAL ORDER. <i>R. P. Anand</i> .....	383
THE UNITED STATES-JAPANESE PROPERTY COMMISSION. <i>Lionel M. Summers and Arnold Fraleigh</i> .....	407
PENAL SANCTIONS FOR MALTREATMENT OF PRISONERS OF WAR. <i>Howard S. Levie</i> ..	433
THE GOA INCIDENT. <i>Quincy Wright</i> .....	617
THE OFFICE OF THE LEGAL ADVISER: THE STATE DEPARTMENT LAWYER AND FOREIGN AFFAIRS. <i>Richard B. Bilder</i> .....	633
SOVIET ATTITUDE TOWARD INTERNATIONAL SPACE LAW. <i>Robert D. Crane</i> .....	685
"PEACEFUL CO-EXISTENCE" AND SOVIET-WESTERN INTERNATIONAL LAW. <i>Edward McWhinney</i> .....	951
LEGAL BASIS FOR UNITED NATIONS ARMED FORCES. <i>John W. Halderman</i> .....	971
EDITORIAL COMMENT:	
Lester H. Woolsey, 1877-1961. <i>Eleanor H. Finch</i> .....	130
Some Legal Implications of the U-2 and RB-47 Incidents. <i>Oliver J. Lissitzyn</i> ..	135
The Issues at Punta del Este: Non-Intervention v. Collective Security. <i>Charles G. Fenwick</i> .....	469
Codification Treaties and Provisions on Reciprocity, Non-Discrimination or Retaliation. <i>Herbert W. Briggs</i> .....	475
The State of Syria: Old or New? <i>Richard Young</i> .....	482
The Changing Science of International Law. <i>Josef L. Kunz</i> .....	488
Some Thoughts on the JOURNAL. <i>William W. Bishop, Jr.</i> .....	997
NOTES AND COMMENTS:	
The Act of State Doctrine in the Light of the <i>Sabbatino</i> Case. <i>Milo G. Coerper</i>	143
Observations on the Practice of Territorial Asylum in the United States. <i>Alona E. Evans</i> .....	148
Publication and Declassification of Records. <i>Denys P. Myers</i> .....	158
Parker School Summer Program in Foreign Law. <i>Willis L. M. Reese</i> .....	160
Institute of Air and Space Law. <i>E. H. F.</i> .....	161

	PAGE
The Fletcher School of Law and Diplomacy. <i>E. H. F.</i> .....	161
Annual Meeting of the Society. <i>Eleanor H. Finch</i> .....	162
Ford Foundation Grant. <i>E. H. F.</i> .....	163
Research Fellowships in Legal Aspects of Space Activities. <i>E. H. F.</i> .....	164
Collective Security Distinguished from Intervention. <i>James O. Murdock</i> .....	500
The Validity of Foreign Confiscations: An <i>Addendum</i> . <i>Hans W. Baade</i> .....	504
Title to Confiscated Foreign Properties and Public International Law. <i>Ignaz Seidl-Hohenveldern</i> .....	507
Other Legal Aspects of the Berlin Crisis. <i>Wilhelm G. Grewe</i> .....	510
De Jure Naturae et Gentium. <i>Alfred P. Rubin</i> .....	514
American Society of International Law Research Fellowships. <i>E. H. F.</i> .....	517
Public Report of the Advisory Committee on "Foreign Relations," 1961. <i>Le-land M. Goodrich</i> .....	518
56th Annual Meeting of the Society .....	524
The Decisions of the Court of Justice of the European Communities. <i>Stefan A. Riesenfeld</i> .....	724
The Foreign Claims Settlement Commission and the Adjudication of International Claims. <i>Edward D. Re</i> .....	728
The Salzburg Session of the Institut de Droit International. <i>Herbert W. Briggs</i> .....	735
Buenos Aires "Jornadas de Derecho Internacional." <i>Josef L. Kunz and Robert D. Hayton</i> .....	743
De Jure Naturae et Gentium. <i>Josef L. Kunz</i> .....	748
56th Annual Meeting of the Society. <i>Eleanor H. Finch</i> .....	751
Regional and Local Meetings of the Society. <i>Eleanor H. Finch</i> .....	782
Fellowship Awards. <i>E. H. F.</i> .....	790
World Peace through Law Conferences. <i>Charles S. Rhyne</i> .....	1001
Settlement of Dual Nationality in European Communist Countries. <i>Ivan Sipkov</i> .....	1010
A Justiciable Controversy concerning Water Rights. <i>Don C. Piper</i> .....	1019
The Hague Academy of International Law—1963 Sessions. <i>E. H. F.</i> .....	1023
Annual Meeting of the Society, 1963. <i>E. H. F.</i> .....	1024
International Legal Materials—Current Documents. <i>E. H. F.</i> .....	1024
Scott Prizes in International Law. <i>E. H. F.</i> .....	1025
Catalogue of Files and Microfilms of German Foreign Ministry Archives. <i>E. H. F.</i> .....	1026
Contributions to the Society's Library. <i>E. H. F.</i> .....	1026
U. S. CONTEMPORARY PRACTICE RELATING TO INTERNATIONAL LAW	165, 526, 793, 1027
JUDICIAL DECISIONS INVOLVING QUESTIONS OF INTERNATIONAL LAW. <i>Covey Oliver</i> .....	171, 540, 805, 1033
EUROPEAN EXTRADITION CASES. <i>M. Magdalena Schoch</i> .....	221
BRITISH AND COMMONWEALTH DECISIONS. <i>Egon Guttman</i> .....	558
GERMAN DECISIONS. <i>M. Magdalena Schoch</i> .....	562
BOOK REVIEWS AND NOTES .....	228, 567, 851, 1114
BOOKS RECEIVED .....	258, 589, 883, 1148
PERIODICAL LITERATURE OF INTERNATIONAL LAW. <i>Eleanor H. Finch</i> .....	260, 593, 887, 1151

	PAGE
OFFICIAL DOCUMENTS:	
UNITED NATIONS. Report of the International Law Commission Covering the Work of Its Thirteenth Session, <i>May 1–July 7, 1961</i> .....	268
ORGANIZATION OF AMERICAN STATES. Eighth Meeting of Consultation of Ministers of Foreign Affairs, Serving as Organ of Consultation in Application of the Inter-American Treaty of Reciprocal Assistance. <i>Punta del Este, Uruguay, January 22–31, 1962</i> :	
Final Act. <i>January 31, 1962</i> .....	601
Declaration on Communist Offensive in America .....	604
Resolution on Special Consultative Committee on Security against the Subversive Action of International Communism .....	606
Resolution on Reiteration of the Principles of Non-Intervention and Self-Determination .....	607
Resolution on Holding of Free Elections .....	608
Declaration on Alliance for Progress .....	609
Resolution on Exclusion of the Present Government of Cuba from Participation in the Inter-American System .....	610
Resolution on Inter-American Defense Board .....	612
Resolution on Economic Relations .....	612
Resolution on Revision of the Statute of the Inter-American Commission on Human Rights .....	613
Statements of Governments .....	614
DISARMAMENT:	
Outline of Basic Provisions of a Treaty on General and Complete Disarmament submitted by the United States. <i>April 18, 1962</i> .....	899
Draft Treaty on General and Complete Disarmament submitted by the U.S.S.R.	926
OUTER SPACE. Resolution on Peaceful Uses of Outer Space Adopted by the United Nations General Assembly. <i>December 20, 1961</i> .....	946
FRANCE-UNITED STATES. Convention of Establishment, with Protocol and Joint Declaration. <i>Paris, November 25, 1959</i> .....	1160
INDEX .....	1172