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57

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Volume

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EDITED

BY

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PREFACE

When the Supreme Court of the United States exercises its original jurisdiction in territorial disputes between the United States and the individual States, or between the States themselves, it often first refers the matter to a Special Master who examines the case as a whole and reports to the Court with recommendations. These “Special Masters’ Reports” do not appear to have been systematically published in any series of reports, but as many of them contain material of considerable international legal content and interest we propose henceforth to print them. The first appears in this volume (*U.S. v. California*, 1952, see p. 54 below). Although, by way of exception, it happens that this one has previously been reproduced in a monographic study on sea boundaries, its publication in the *International Law Reports* will, it is hoped, make it much more widely known.

We begin in this volume a determined attempt to bring up to date the cases from the Federal Republic of Germany. Twelve decisions rendered in 1966 have been selected and translated by Mr Otto Lampe. Cases for subsequent years have also been prepared by him and by Dr Christoph von Katte. These will be spread in chronological order over the next few volumes of these *Reports* and will bring the German jurisprudence relatively up to date. We express our thanks to these two scholars for their capable and continuing contribution, as well as to Professor Dr R. Bernhardt, the Director of the Max-Planck-Institut für Ausländisches Öffentliches Recht und Völkerrecht, Heidelberg, and to the Institute itself, for their helpfulness in permitting us to draw heavily upon the recent volumes of the *Fontes Iuris Gentium* containing extracts from the most pertinent German decisions.

It is desirable, though, to explain that the manner in which German decisions are published in Germany does not always allow of their presentation in the *International Law Reports* in as complete a form as that of cases from other countries. It has been our editorial practice normally to publish decisions in full, including statements of fact, except where the facts or legal discussion involve lengthy consideration of matters having little bearing on international law. German decisions, however, are rarely publicly reported in full and access to the original texts of decisions is often difficult or impossible. We have therefore thought it appropriate to present the German materials in much the same way as they appear in the sources to which we have access—a practice found generally acceptable in the jurisdiction from which they emanate.

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Three decisions of the European Court of Human Rights rendered in 1974 and 1975 appear in this volume. All the decisions of this Court for the period from 1975 till early 1980 will be printed in the next volume of these *Reports*, which will be devoted exclusively to them. These cases—and especially the extensive summaries—have been prepared by Mr T. F. Martin and Mr C. H. R. Thornberry, to whom we are most grateful.

The work of the International Court of Justice is represented principally by the decisions given in the *Nuclear Tests* cases. Because the judgments in the proceedings between Australia and France and between New Zealand and France are so similar, only the former have been printed. The material differences between the two sets of proceedings are noted at p. 605.

For permission to reproduce material photographically we wish to express our great appreciation to the International Court of Justice, the Incorporated Council of Law Reporting, Butterworth & Co. and the West Publishing Company.

In addition to those whose work has been acknowledged above, the following have made significant contributions to the volume: Professor Alona Evans, who supplied many of the U.S. decisions; Mrs V. Englund, who provided additional U.S. cases; Professor G. M. White, who sent in the English cases; Miss Julia Buchanan, Miss Sally Morris and Mr Hugh Paton, who prepared summaries and revised translations; Mr C. J. Greenwood, my principal editorial assistant, who helped at every stage of the preparation of the volume; Mr G. M. Cowling, who made the Index; Miss E. E. Jansen, who compiled the Tables of Cases; Mr T. F. Martin, who prepared the Table of Treaties and gave general editorial aid; Mrs S. Rainbow, whose secretarial assistance is so essential; and our printers, the Gomer Press, who indulged us with a highly flexible printing programme. To all of them I express my warmest thanks.

We record with deep regret the death on 28 August 1979 in Taiwan, of Professor Yuen-li Liang, a member of the Advisory Committee since 1951. Professor Liang will be remembered as the first Director of the Codification Division in the Office of Legal Affairs of the United Nations, a position to which he was appointed in 1948. His tenure of office covered the formative years of the International Law Commission and the period of its first fruitful work. Professor Liang played an active and constructive role in the work of the Commission and acted as Executive Secretary of four major diplomatic conferences based on the work of the Commission: the two Geneva Conferences on the Law of the Sea, 1958 and 1960, and

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the two Vienna Conferences on Diplomatic Intercourse, 1961, and Consular Relations, 1963. In 1964 he retired to Taiwan where he became Legal Adviser of the Ministry of Foreign Affairs of the Republic of China and a professor at the National University. He will be fondly remembered for his legal skills, intellectual perception and engaging manner.

E. LAUTERPACHT

TRINITY COLLEGE,
CAMBRIDGE
July 1980

EDITORIAL NOTE

The *International Law Reports* endeavour to provide within a single series of volumes comprehensive access in English to judicial materials bearing on public international law. On certain topics it is not always easy to draw a clear line between cases which are essentially ones of public international law interest and those which are primarily applications of special domestic rules. For example, in relation to extradition, the *Reports* will include cases which bear on the exception of “political offences” or the rule of double criminality, but will restrict the number of cases dealing with purely procedural aspects of extradition. Similarly, while the general rules relating to the admission and exclusion of aliens, especially of refugees, are of international legal interest, cases on the procedure of admission usually are not. In such borderline areas, and sometimes also where there is a series of domestic decisions all dealing with a single point in essentially the same manner, only one illustrative decision will be printed and references to the remainder will be given in an accompanying note.

DECISIONS OF INTERNATIONAL TRIBUNALS

The *Reports* seek to include so far as possible the available decisions of every international tribunal, e.g. the International Court of Justice or *ad hoc* arbitrations between States. There are, however, some jurisdictions to which full coverage cannot be given, either because of the large number of decisions (e.g. the European Commission of Human Rights or the Administrative Tribunal of the United Nations) or because not all the decisions bear on questions of public international law (e.g. the Court of the European Communities). In these instances, those decisions are selected which appear to have the greatest long-term value.

DECISIONS OF NATIONAL TRIBUNALS

A systematic effort is made to collect from all national jurisdictions those judicial decisions which have some bearing on international law.

EDITORIAL TREATMENT OF MATERIALS

The basic policy of the Editor is, so far as possible, to present the material in its original form. It is no part of the editorial function to impose on the decisions printed in these volumes a uniformity of approach or style which they do not possess. Editorial intervention is limited to the introduction of the summary and of the bold-letter rubric at the head of each case. This is followed by the full text of the original decision or of its translation. Normally, the only passages which will be omitted are those which contain either statements of fact having no bearing on the points of international law involved in

the case or discussion of matters of domestic law unrelated to the points of international legal interest. The omission of material is usually indicated either by a series of dots or by the insertion of a sentence in square brackets noting the passages which have been left out.

PRESENTATION OF MATERIALS

The material in this volume is of two kinds, material reproduced photographically and material which has been freshly set for this volume.

Material photographically reproduced. This consists exclusively of reports originally printed in the English language. The material can usually be recognized by the differences between its type-style and the Baskerville type otherwise used in these *Reports*. The source of the material is identified by the reference to "Report" in square brackets at the end of the case. Where more than one citation is given, the report used is the one first listed. The bold type figures in square brackets in the inner margin of each page refer to the pagination of the original report. The smaller figures in square brackets in the margins of these cases are the indicators of footnotes which have been editorially introduced. Where the lay-out of the photographically reproduced material prevents the introduction of editorial notes at the foot of the page, such notes will be found at the end of the case.

Other material. The remaining material in the volume has been typeset for this volume. This includes all material specially translated into English for these *Reports* as well as some material in English which in its original form was not suitable for photo-reproduction. The source of all such material is indicated by the reference to the "Report" in square brackets at the end of the case. The language of the original decision is also mentioned there. The bold figures in square brackets in the margin of the text indicate the pagination of the original report. Small figures in square brackets within the text are indicators of footnotes which have been editorially introduced.

NOTES

Footnotes. Footnotes enclosed in square brackets are editorial insertions. All other footnotes are part of the original report.

Other notes. References to cases deemed not to be sufficiently substantial to warrant reporting will occasionally be found in editorial notes either at the end of a report of a case on a similar point or under an independent heading.

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