

Index

Pages 283-86 in the original edition

Note that the pages numbers below refer to the original published volume; the web pages may differ considerably in numbering.

- Abstention from action, 81-82, 88-89
- Acquiescence, 8-9, 68, 70, 188, 195-98
- Aer clausus, *see* Airspace, law of
- Airspace, law of, 19n, 38-39, 41, 58, 64, 132-33, 177, 217, 224, 269-70
- Allen, Carleton, 169, 172, 243-44
- Anglo-Norwegian Fisheries Case, *see* Fisheries Case
- Apartheid, 7, 30-31, 77
- Articulation, *see* Custom, articulation of
- Asylum Case, 6n, 54, 77n, 117, 233, 235n, 246, 252-55, 263n
- Austin, John, 23-26, 218

- Bancroft treaties, 113-14, 16
- Basdevant, Jules, 60, 255-56
- Baxter, Richard, 108, 114-16, 123n, 131n, 139n, 152-59, 164-65
- Bilder, Richard, 99n, 213
- Bishop, William W., Jr., 65, 80n, 96n, 125n, 142n, 147-48, 151, 192
- Blackstone, William, 57, 240-45, 250
- Briggs, Herbert W., 6, 10n, 63n, 125, 246
- Burden of proof, 54, 182-86

- Charter of the United Nations, 137-38, 194
- Cheng, Bin, 50, 66, 72n, 268
- Claim-oriented view, 18-19
- Comity, 76, 78
- Commitment, 90, 160,
- Common law, 240-41
- Complementary prescriptions, *see* Prescriptions, complementarity of
- Consensus of states, 33-42, 77, 87, 95, 102n, 164, 170, 269
- Consent theory of custom, 68-69, 187-99
- Continental shelf, 5n, 35-36, 81, 110-12, 161, 202-11
- Continental Shelf Cases, 109-13, 120-21
- Continuity of usage, *see* Custom continuity of
- Coplin, William, 28, 65
- Custom
 - articulation of, 74-88
 - by protest, 101
 - by treaty, 116, 160-62

- continuity of, 59-62, 66
- density of, 59
- duration of, 56-61, 66
- elements of
 - according to Hudson, 7-9, 13, 19, 79, 197
 - communication, 59
 - material (quantitative), 48-50, 56-66, 87-98
 - psychological (qualitative) 40, 54, 66-8
- "error" hypothesis, 66-68
- general, 68, 106, 234-36, 259-60
- generality of, 64-66
- repetition of, 60-64, 66, 78, 91, 94
- special, 68, 77n, 106, 233-63
- proof of, 54, 241-43
- treaty-generation of, 70-71, 104-166
- see also* Treaties, effect upon customary law

- D'Amato, Anthony, 14n, 24n, 27n, 28n, 72n, 114n, 141n, 165n, 196n, 222n, 227n, 236n
- Decentralization, in forming custom, 28-29
- Dédoublement fonctionnel*, 28, 216-17
- Density of usage, *see* Custom, density of
- Desuetude, 239
- DeVisscher, Charles, 54, 64-65, 96n, 178, 252
- Duration of usage, *see* Custom, duration of

- Estoppel, 199-215
- Evidence of international law, *see* International law, evidence of
- Extradition, 143-44

- Falk, Richard, 3n, 195, 218, 233
- Fisher, Roger, 25, 74-75
- Fisheries Case, 117-18, 180-86, 233, 247-48, 252, 258-62
- Fitzmaurice, Gerald, 14, 58n, 141-42, 182, 188-89, 194, 197-98, 236, 260, 265, 273
- Force and law, *see* Sanctions and law
- Freedom of state action, 29, 177-86
- Freedom of the seas, *see* Seas, freedom of
- Fuller, Lon, 24-5, 176n, 273

- General Assembly resolutions, *see* Resolutions, General Assembly
- General principles of law, 95
- Generality of usage, *see* Custom generality of
- Geneva Convention on the Continental Shelf, 110-12, 120, 208
- Geneva conventions on the law of the sea, 137, 151, 217
- Genocide, 7, 79, 158

- Gény, François, 48-49, 56, 67
Gihl, Torsten, 16-17, 51, 161n, 164
Griffin, William, 135-36, 162n
Guggenheim, Paul, 52, 68n, 143-44
- Harmon doctrine 134-36, 148-49
Hart, H. L. A., 11, 24n, 28, 41, 44, 169, 171n, 266
Henkin, Louis, 30, 32-33, 61, 81n
Hudson, Manley O., 7-9, 13, 19, 44, 53, 59n, 64n, 79, 139n, 197
- I'm Alone Case, 63
International Commission of the Oder Case, 119, 178
International law
 evidences of, 40, 267-68
 meaning of, 18, 21, 27, 32-33, 197
 sources of, 4, 19, 104, 153, 264-67, 269
International Law Commission, 7, 36-37, 51, 53, 76, 86, 140-41, 156
- Jenks, Wilfred, 17, 150n, 246-49
Jurisprudence constante, 57
Jus cogens, 111, 132, 250
- Kaplan, Morton, 144-47, 266
Katzenbach, Nicholas, 144-47, 266
Kelsen, Hans, 17, 25, 51-52, 66-67, 70, 80n, 151n, 170-71, 193, 239
Kunz, Josef, 5, 59n, 64n, 115n
- Lasswell, Harold D., 35n, 75n, 218, 219
Lauterpacht, Hersch, 17, 53, 64n, 65n, 98n, 100n, 128n, 131-32, 150n, 178-79, 185-88, 191n, 209-15
Law, meaning of, 11, 13, 21-23, 32, 176-77; *see also* International law
Lissitzyn, Oliver J., 10, 109, 150n, 188, 192-94, 234
Local custom, *see* Custom, special
Lotus Case, 14, 52, 54, 64n, 75, 79, 82-85, 116-17, 178-79, 189-91, 252
- MacGibbon, I. C., 14n, 68-69, 98, 188, 194-97, 201
Manifest intent, 109-12, 120
Mare liberum, *see* Seas, freedom of
Mavrommatis Case, 119
McDougal, Myres, 11-12, 22, 26, 28, 31-32, 35-36, 38, 60, 67-68, 75, 94n, 99n, 173, 176, 215-29, 234
Morality and law, 22, 26-27, 33, 67
Most-favored-nation clause, 130-31

- National interest, 33, 145-47
- Nationals in Morocco Case, 252, 254-55, 258
- Natural law, 26-27, 68, 80
- Negative practice, 61-62
- Norm of law
 - definition, 31
 - "pressure" on behavior, 31-32
- North Sea Continental Shelf Cases, *see* Continental Shelf Cases
- Nottebohm Case, 113-16, 157, 159, 252
- Nuremberg Cases, 5n, 14, 79, 121-23, 159, 227n

- Opinio juris*, *see* Custom, elements of, psychological
- Outer Space Convention, 107

- Pacta sunt servanda*, 41, 130
- Pacta tertiis*, *see* Treaties, effect upon third-party states
- Paquete Habana Case, 78, 124-26
- Parry, Clive, 10n, 173, 244, 267-68
- Phenomenological perspective, 34, 37
- Policy and law, 22-23
- Positivism, 23-27, 49-50
- Prescriptions
 - acquisitive, 235
 - complementarity of, 220-25
 - defined, 36, 75, 216
- Primary rules, *see* Rules of law
- Protest
 - against Britain in World War I, 100, 147-48
 - effect on custom, 9, 68-70, 84-85, 98-102, 188, 195-97, 200, 210-14, 261-62
- Publicists, writings of, 43-44
- Puchta, Georg, 47-48, 56n, 57, 72, 172

- Raman, K. Venkata, 71
- Reasonableness, 215-29
- Reciprocity, 27-28, 33
- Reisman, William, 35n, 75n
- Repetition of usage, *see* Custom, repetition of
- Resolutions of the General Assembly, 3, 8, 34, 36-37, 44, 50, 76, 78-79, 86, 95, 192
- Right of Passage Case, 191-92, 233, 252, 256-58
- Rivers, laws relating to, 133-37
- Roman law, 237-40
- Ross, Alf, 17, 163, 169
- Rule of law, 31-32
- Rules of law

- primary rules, 41-44, 198
- secondary rules, 41-44, 87, 162,164, 270

- Sanctions and law, 22, 24-27, 33, 170
- Savigny, Friedrich von, 47-48, 57, 72, 172
- Scelle, Georges, 28, 53
- Schwarzenberger, Georg, 14, 128-31, 132n, 137n, 139n
- Seas, freedom of, 26, 30 32, 41, 58, 62-63, 130, 176, 211, 217, 220-24, 269
- Secondary rules of law, *see* Rules of law, secondary rules
- Shihata Ibrahim, 125n, 163
- Singer, David, 16n, 34n
- Slouka, Zdenek, 12, 59, 200-15, 258
- Sørensen, Max, 15n, 17, 54, 59, 71, 137n
- Sources of international law, *see* International law, sources of
- South West Africa Cases, 77, 235-36
- Sovereignty, 24-26
- Statute of the World Court, 43, 75, 108, 255-56
- Subjectivities of law, 40, 67
- Suy, Eric, 53, 70-71, 9ln

- Tacit treaty, 50-51, 188
- Treaties
 - bilateral, 104-06,114,136,164
 - compared to contracts, 149-52
 - definition, 103
 - effect upon customary law, 70-71, 90, 104-66, 272-73
 - effect upon third-party states, 106-09
 - interpretation of, 118
 - see also* Manifest intent
- Truman Proclamation of 1945, 202-04,207n, 210, 214
- Tunkin, G. I., 50, 58n, 59-61, 68, 76n,140,160,188, 192-95

- Unilateral declarations, 202-04, 210-14
- Usage, *see* Custom, elements of, material

- Waldock, Humphrey, 58-59, 106n, 141,162,183-85, 191-92, 258n
- Williams, Glanville 23-24,26
- Wimbledon Case, 118-19,252
- Wolfke, Karol, 53n, 54, 59-60, 70, 98, 234n, 256