Studies in International Law

Holland Thomas Erskine
STUDIES IN INTERNATIONAL LAW

HOLLAND
London
HENRY FROWDE, M.A.
PUBLISHER TO THE UNIVERSITY OF OXFORD

AND

STEVENS AND SONS, LIMITED
STUDIES
IN
INTERNATIONAL LAW

BY

THOMAS ERSKINE HOLLAND, D.C.L.

OF LINCOLN'S INN, BARRISTER-AT-LAW; CHICHELE PROFESSOR OF INTERNATIONAL LAW AND DIPLOMACY, AND FELLOW OF ALL SOULS COLLEGE, OXFORD
HON. LL.D. OF THE UNIVERSITIES OF BOLOGNA, GLASGOW, AND DUBLIN
HON. PROFESSOR IN THE UNIVERSITY OF PERUGIA; HON. MEMBER
OF THE UNIVERSITY OF ST. PETERSBURG, OF THE JURIDICAL SOCIETY OF BERLIN, AND OF THE ACADEMY OF LEGISLATION OF TOULOUSE; MEMBER OF THE INSTITUTE OF INTERNATIONAL LAW

Oxford
AT THE CLARENDON PRESS
LONDON AND NEW YORK: HENRY FROWDE
ALSO SOLD BY
STEVENS & SONS, LIMITED, 119 & 120 CHANCERY LANE, LONDON
1898
PREFACE

This volume has no pretensions to be anything more than is indicated by its title-page. It is a collection of such By-studies of special points as are incidental to the continuous exploration and exposition of any great department of knowledge.

It is hoped that the papers here put together may be found to contain matter of permanent interest—diplomatic, personal, or bearing upon the history of opinion—which could not readily be found elsewhere. Most of them were originally delivered as lectures, and many have appeared, as will be seen, in various reviews, to the editors of which the author is indebted for permission to republish them. The "Studies" are now printed substantially as they were first written; but they have been brought up to date, whenever this seemed desirable, by the addition of brief notes. They have also been roughly grouped, according to subject, under the several heads of "The Law of War," "Illustrations of the System of International Law," "The "Eastern Question," and "Biographical Sketches."

OXFORD,

Nov. 2, 1898.

T. E. H.
CONTENTS

PART I
THE LAW OF WAR

1. ALBERICO GENTILI ........................................... 1

APPENDIX—
1. The Gentili family ........................................... 24
2. Date of birth ................................................... 27
3. Letters to the Earl of Leicester ......................... 28
4. A letter to Sir John Benett ............................... 29
5. His will ......................................................... 30
6. Date of death and place of burial ....................... 31
7. Epitaph ......................................................... 32
8. List of writings ............................................... 33
9. Revived interest in Gentili ............................... 37

II. THE EARLY LITERATURE OF THE LAW OF WAR ........ 40

III. THE BRUSSELS CONFERENCE OF 1874, AND OTHER DIPLOMATIC
     ATTEMPTS TO MITIGATE THE RIGOUR OF WARFARE ........ 59

IV. THE PROGRESS TOWARD A WRITTEN LAW OF WAR ....... 79

V. THE BOMBARDMENT OF OPEN COAST TOWNS ............ 96

VI. INTERNATIONAL LAW IN THE WAR BETWEEN JAPAN AND CHINA 112

VII. PACIFIC BLOCKADE ........................................ 130
CONTENTS

PART II

ILLUSTRATIONS OF THE SYSTEM OF INTERNATIONAL LAW

viii. Recent Diplomatic Discussions, as Illustrations of the System of International Law 151
ix. The Literature of International Law in 1884 168
x. International Law and Acts of Parliament 176

PART III

THE EASTERN QUESTION

xi. The Treaty Relations of Russia and Turkey, 1774-1853 201
     Tables of Treaties 223
xii. The Execution of the Treaty of Berlin 226
xiii. Bulgaria, Greece, and the Treaty of Berlin 251
xiv. The International Position of the Suez Canal 270
     Additional Note 287

PART IV

BIOGRAPHICAL SKETCHES

xv. Notices nécrologiques sur quelques Membres Anglais de l’Institut de Droit International:—
     Mountague Bernard 294
     Robert Phillimore 300
     William Edward Hall 302
     Travers Twiss 305

INDEX 309
I

ALBERICO GENTILI

A peculiar interest attaches to the study of International Law at Oxford, from the fact that the history of the science has so many points of contact with the annals of the University. The very name by which it is commonly known is due to a suggestion of one of our Regius Professors; some of its most important doctrines have been elaborated by a succession of Oxford-bred civilians; the most eminent judge who ever presided in a prize court was a typical Oxford man; and I need hardly remind you of the services rendered both to his University and to his country at large by that accomplished master of the Law of Nations, whose place here it is my difficult, though honourable, task to attempt to fill.

I propose, however, to-day to speak of an earlier luminary than any of these; of one, indeed, who has some claim to

---

2 Richard Zouche.
3 Lord Stowell.
4 Mountague Bernard.
5