

**TWO STUDIES IN  
INTERNATIONAL  
LAW**

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Two Studies in International Law by Coleman Phillipson

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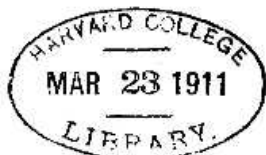
**COLEMEN PHILLIPSON**

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INTERNATIONAL LAW

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*Gift of  
William Endicott, Jr.*

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**DEDICATED**

**TO**

**SIR JOHN MACDONELL, C.B., M.A., LL.D.,**

**MASTER OF THE SUPREME COURT, AND QUAIN**

**PROFESSOR OF COMPARATIVE LAW,**

**UNIVERSITY OF LONDON.**





## PREFACE.

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THE two following essays, dealing with important questions of international law, were written at the suggestion of Sir John Macdonell, whose hints have been to me of inestimable value.

The aim of the writer has been to examine these questions not from an isolated standpoint but from a comparative point of view. There is no doubt that investigation by the comparative method, supplemented by historical treatment, is most fruitful in all branches of study, but nowhere is it more helpful, more richly suggestive, more self-corrective than in matters of jurisprudence.

The nations of the world are more or less alike in their strivings, their hopes, their aspirations. In so far as States differ in their national circumstances and necessities will they be regulated by their private municipal law ; in so far as they are alike, in so far as they possess common interests which bring them together, will they necessarily be subject to the rules of public international law. And so by international law is understood a body of rules and principles governing the relationships of independent States, and possessing a legal

character. Its sanction, no doubt, exercises less force than that of municipal law; but to infer from this that the established rules of international law do not confer distinct rights and impose corresponding obligations is to jump to an erroneous and harmful conclusion. The fact that disputes and controversies have waged round certain points which this or that State has asserted to be universally binding, or has repudiated—the fact that some particular part is not yet accepted by all, or is of doubtful authority, does not surely invalidate the whole. International law, like every other science or regulative body of doctrine, is a living organism, and as such is inevitably subject to an evolutionary process. Yesterday, in the sphere of physical science, we had nothing better than conflicting tentative hypotheses, to-day we have more accommodating theories, to-morrow we hope to attain to exact scientific law.

And so in the case of public international law. With the extension of rapid communication, with the promotion of wider commercial relationships between the various States of the world, with the increasing social, scientific, and literary intercourse, fuller understanding and sympathy between them, the law of nations will more effectively develop and gradually adjust itself to meet the necessities of a fuller knowledge and satisfy the moral consciousness of mankind in

accordance with the truest conception of the just and the fair.

Striking manifestations of the desire for a more intimate *rapprochement* between the nations have already been observed. At the Hague Conference of 1899 twenty-six independent States were represented; at the 1907 Conference delegates were sent by forty-four States. And though every Power was animated by a sense of its own sovereignty and independence, yet the fact of their assembling in order to arrive at some definite principles of international practice implied a full recognition that their sovereignty was only relative, their independence really interdependence, and that a body of harmonised, universally accepted principles regarded as law alone possessed absolute sovereignty. There may be some individuals who will express dissatisfaction with the actual concrete result of these conferences; such discontented ones would look for instantaneous creation rather than steady growth. Nevertheless, the future historian when dealing with the present decade will certainly regard it as an epoch of remarkable significance in the modern history of the world.

C. PHILLIPSON.

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