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'That Little Book': R.Y. Jennings, The Acquisition of Territory in International Law

Cait Storr*

Robert Yewdall Jennings. ***The Acquisition of Territory in International Law***. 2nd edn. Manchester, UK: Manchester University Press, 2017. Pp. 168. £26. ISBN: 9781526117175.

Abstract

The Acquisition of Territory in International Law *has been an indispensable work in the field for 60 years. It remains so, if for shifting reasons. Robert Jennings' treatment of the applicable law is so succinct, and his bald statements of fact as to the nature of international law so unapologetic, that the text will invariably reward close re-reading by international lawyers of all persuasions.* Acquisition of Territory *goes far beyond its apparent brief of summarizing the relevant lex lata and offering an expert opinion on key issues of lex ferenda. Viewed from the right light, the work is a prism that refracts the world of early 1960s international law. Jennings deftly sidesteps and postpones fundamental questions of anti-colonial justice that some would have expected to be addressed in a lecture series on the acquisition of territory given in December 1962. The reading down of global anti-colonial movements to a 'policy question' beyond the strict concerns of jurists says much of the culture of British international law in the early 1960s. Jennings uses law to relegate calls for colonizing powers to be held to account to some future time, in some differently constituted international system. Amongst his kind, then and now, he is hardly alone.*

The Acquisition of Territory in International Law is short. As Marcelo Kohen writes in his new introduction to the second edition of R.Y. Jennings' 1962 classic, 'this is but one of its merits'.[1] Robert Jennings' text comprises five chapters originally delivered as

* Lecturer, Melbourne Law School, University of Melbourne, Australia. Email: acstorr@unimelb.edu.au.

1 R.Y. Jennings, *The Acquisition of Territory in International Law*, with a New Introduction by Marcelo G. Kohen (2nd edn, 2017), at 1.

lectures – 'Territorial Change', 'The Modes of Acquisition', 'Recognition, Acquiescence and Estoppel', 'Title and Unlawful Force' and 'Legal Claims and Political Claims'. Each one reads more like a full stop than an analysis of contentious law then under unprecedented political strain. But *Acquisition of Territory* goes far beyond its apparent brief of summarizing the relevant *lex lata* and offering an expert opinion on key issues of *lex ferenda*. Viewed from the right light, the work is a prism that refracts the world of early 1960s international law.

Jennings – then Whewell Professor of International Law at Cambridge University, Hersch Lauterpacht's successor in the post – delivered these lectures as part of the Melland Schill Series at the University of Manchester over three days in mid-December 1962.[2] Elvis topped the British charts that week with 'Return to Sender', and the Atlas supercomputer, one of the world's first, entered its second week of operation in the Computing Machines Laboratory at Manchester. Told through Jennings' prose, the law – and, beyond it, the world – appears logical and under control. His tone is assured as he summarizes the core principles and pressing issues in the law of territorial acquisition, rendering plain for his audience what must at the time have seemed anything but. The year 1960 had seen 17 declarations of independence across Africa, and Britain had suppressed surging uprisings in Kenya and Malaya. In 1961, Sierra Leone and Tanzania became independent, and anti-colonial conflict in Angola escalated to war. In the 12 months preceding Jennings' lectures, Algeria, Jamaica, Rwanda and Burundi, Uganda, Western Samoa and Trinidad and Tobago had declared independence; the New York Agreement, which granted Indonesia the right to occupy West New Guinea under United Nations (UN) administration, had been signed; and tensions between the USA and the Soviet Union had blown out into the Cuban missile crisis in October.

The capacity of the international legal system to withstand compounding fronts of challenge was, to say the least, uncertain. The balance of territorial control struck at the end of World War II was already fragmenting at the seams. Jennings, a practised advocate, scholar and servant of empire, delivered his lectures in the weeks between the passage of Resolution 1761 in the UN General Assembly – which had condemned apartheid in South Africa as 'seriously endangering international peace and security' – and the International Court of Justice's (ICJ) 1962 judgment on the preliminary objections in the *South West Africa* case, which would decide whether the Court had jurisdiction to hear Ethiopia and Liberia's claim, as members of the former League of Nations, against South Africa's continued occupation of Namibia.[3] But with placid and seemingly self-evident reasoning, Jennings creates a sense that, despite the racket at the gates, all is well – or will be – just as soon as public international law devises a legislative mechanism by which it might, in the absence of compulsory jurisdiction,

[2] Sincere thanks to Ian Fishwick, Faculty Engagement Librarian, and James Peters, Archivist, at the University of Manchester, for their expert assistance with ascertaining dates of delivery and publication.

[3] GA Res. 1762, 6 November 1962; *South West Africa (Liberia v. South Africa)*, Preliminary Objections, Judgment of 21 December 1962, ICJ Reports (1962) 319.

keep pace with 'recent developments' in world affairs and 'new policies' in the General Assembly and leave the ICJ alone to its proper business of applying the law.

A week after Jennings delivered his lectures, the ICJ's famous 1962 decision was handed down, confirming eight to seven the Court's jurisdiction to hear the merits of Liberia and Ethiopia's claim. *Acquisition to Territory* was published two short weeks after that, a testament to the university press of the time.[4] Jennings appended the entirety of the 1928 *Island of Palmas* decision to the printed text, ostensibly for the benefit of students, as Max Huber's canonical treatment of the principles of territorial sovereignty was then difficult to obtain.[5] But the weight of Huber's decision was no doubt intended to add ballast to Jennings' underlying argument, which comes to the fore in his final chapter, 'Legal Claims and Political Claims': while the international politics of territorial control was clearly unstable, the international law of territorial acquisition was not. The ICJ's role in territorial disputes was to restate and apply that law, however unfashionable it might be. The Court was not to assert jurisdiction where it had none, whatever the political pressures of the day; and above all, it was not to assume to itself quasi-legislative powers reactive to the anti-colonial headwinds in the General Assembly and beyond. Enforcing these limitations on the Court's role remained a lifelong concern for Jennings as both scholar and judge.[6] It was forged with an eye to diplomatic strategy as much as legal theory. The defence of judicial conservatism in his final lecture provided pre-emptive support to the conservative reasoning in the joint dissent of Judges Gerald Fitzmaurice (United Kingdom) and Percy Spender (Australia) handed down two weeks later in the *South West Africa* case.[7] It is not difficult to imagine he was well aware of its contents.

As Kohen notes, Jennings had worked in the Intelligence Corps during World War II, interpreting aerial photographs, maps and charts, and this experience with the high-stakes intersections of geographic and legal expertise informed his later work on territorial and maritime disputes as both advocate and judge.[8] *Acquisition of Territory* was published only a few years after the 1958 Geneva Conventions on the Law of the Sea and the establishment of the Ad Hoc Committee on the Peaceful Uses of Outer Space.[9] While Jennings excludes consideration of air and space law, polar law and

4 Thanks to James Peters at Manchester University for ascertaining the publication schedule.

5 Kohen, 'New Introduction', in Jennings, *supra* note 1, 1, at 12; *Island of Palmas* case (or *Miangas*) (United States v Netherlands), Award, 4 April 1928, II RIAA 829.

6 *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Judgment, 26 November 1984, ICJ Reports (1984) 392, at 533, Separate Opinion of Judge Sir Robert Jennings; Jennings, 'The Role of the International Court of Justice', 68 *British Yearbook of International Law* (*BYIL*) (1998) 1, especially at 48ff; see also Ranganathan, 'The "English School" of International Law: Soundings via the 1972 Jubilee Essays', 80 *Cambridge Law Journal* (2021) 126.

7 On Judge Gerald Fitzmaurice, see A. Carty and R.A. Smith, *Sir Gerald Fitzmaurice and the World Crisis of 1930–1945* (2000); on Judge Spender, see Kattan, 'There Was an Elephant in the Court Room: Reflections on the Role of Judge Sir Percy Spender (1897–1985) in the *South West Africa Cases* (1960–1966) after Half A Century', 31(1) *Leiden Journal of International Law* (2018) 147.

8 Kohen, *supra* note 5, at 1–2.

9 Convention on the Territorial Sea and the Contiguous Zone 1958, 516 UNTS 205; Convention on the High Seas 1958, 450 UNTS 11; Convention on Fishing and Conservation of the Living Resources of the High Seas 1958, 559 UNTS 285; Convention on the Continental Shelf 1958, 499 UNTS 311.

maritime delimitation from the text to focus squarely on the acquisition of sovereign territory, his mapping of the contours of sovereign territory was informed by a keen interest in territory's edges and outsides as both theoretical curiosities and real geopolitical flashpoints.[10]

Jennings begins his first chapter with a dramatic hook: '[T]he legal rules and procedures for effecting territorial changes lie at the core of the whole system of international law' (at 15). He notes that the law of territory is riddled with private law analogies, which are indispensable but chronically overstated; despite 'certain obvious points of resemblance between sovereignty over territory and property in land … the points of difference are much more significant than any resemblances' (at 16). Jennings then restates the distinction between title – 'the vestitive facts which the law recognises as creating a right' (at 16) – and possession, or actual effective control, noting that, while actual effective control is necessary to all modes of acquisition, it is not sufficient to establish title. This foundational rule does not survive to the end of the text without heavy qualification.

Quickly sketching out the five modes of acquisition – occupation of lands *terra nullius*, prescription, cession, accession or accretion and subjugation or conquest, outlawed with the prohibition on the use of force – Jennings quickly moves to identify the prevailing issue: none of the recognized modes of acquisition had much to say about 'the most important territorial changes of the last few years' and were thus 'directly relevant to only a part of the problem' (at 28). He declines to identify that 'problem' as the wave of anti-colonial and independence movements sweeping across Africa, Southeast Asia and the Pacific, but the context is clear. Having noted that the law of acquisition is 'based upon the civil law modes for the transfer of property *inter vivos*' – between pre-existing legal subjects – Jennings stresses that it therefore 'does not provide … for the situation where a new State comes into existence' (at 20). For Jennings, the imperial jurist, a new state coming into existence was tellingly a question of loss rather than of acquisition of territory, and, with respect to territorial loss, there was one additional mode recognized in international law: 'revolt' (at 21). The legal question of whether a new state had come into existence by way of revolt was to be determined solely by recognition by other states (at 28). Noting the exception of mandates and trust territories, for which specific regimes had been created in the UN Charter, Jennings thus converts the sprawling structural challenges to international law posed by the decolonization movements into a containable and relegable question of recognition; and recognition was 'essentially a procedure by which the law accommodates itself to accomplished fact' (at 28). And that – for chapter 1 at least – was that.

[10] See, e.g., Jennings, 'Some Aspects of the International Law of the Air', 75 *Recueil des Cours* (1949) 513; Jennings, 'The Limits of State Jurisdiction', 32 *Nordic Journal of International Law* (1962) 209; Jennings, 'Customary Law and General Principles of Law as Sources of Space Law', in K.-H. Böckstiegel (ed.), *Environmental Aspects of Activities in Outer Space: State of the Law and Measures of Protection* (1990) 149; Jennings, 'Jurisdictional Adventures at Sea: Who Has Jurisdiction over the Natural Resources of the Seabed', 4 *Natural Resources Law* (1971) 829; Jennings, 'UN Draft Treaty of the International Seabed Area: Basic Principles', 20(3) *International and Comparative Law Quarterly* (1971) 433.

Chapter 2 delves deeper into each of the five modes of acquisition, albeit to varying degrees of consideration. Jennings dispenses quickly with cession, having already noted that it is largely irrelevant to the 'problem' of decolonization. Regarding occupation of lands *terra nullius*, he asserts that it is 'obsolescent except in relation to the Polar regions' (at 33) and, therefore, relevant primarily to proof of historical title. In this context, the main challenge in proving occupation is 'proving and defining the degree and kind of possession effective to create a title' (at 34) – a matter he opts to leave to existing scholarship, which had proliferated in the lead-up to the 1958 Antarctic Treaty.[11] Jennings then moves on to his real point of interest in chapter 2: prescription and historical consolidation of title, and the distinction between them. Jennings divides prescription into 'acquisitive' and 'extinctive' varieties, with acquisitive prescription itself encompassing two quite different claims: assertion of 'immemorial possession', on the one hand, and, on the other, assertion of the rights of sovereign title over such a period of time as to cure a defect in title. The latter, for Jennings, was akin to adverse possession in property law, and he is pragmatic as to its philosophical merits. Against any expectations of international law as the 'handmaid of justice', he quotes W.E. Hall: '[I]t must be frankly recognized that internationally it is allowed, for the sake of interests which have hitherto been looked upon as supreme, to lend itself as sanctioning wrong when wrong has shown itself strong enough not only to triumph for a moment, but to establish itself permanently and solidly' (at 35). Jennings is uninterested in what it suggests of international law more broadly that excesses of power are permissible when successful. The legal truth of the proposition is clear, and that is the extent of his concern.

Of historical consolidation, Jennings draws on Charles de Visscher's reconsideration of his own judgment in the 1951 *Norwegian Fisheries* case to draw a 'subtle difference' between prescription and consolidation (at 37).[12] While proof of possession over time – particularly where drawn from the conduct of third states – constitutes evidence of acquisition by prescription, being the peaceful and open exercise of sovereign rights over a period of time, that evidence may itself amount to acquisition by historical consolidation of title. Put another way, the relevant test for prescription is the exercise of sovereign rights, whereas the relevant test for historical consolidation is third party responses to that exercise (at 39). Jennings' intention in parsing a distinction that might have appeared overly nice was to warn against the 'dangers' of the relatively new concept of consolidation as a mode of acquisition. On his reading, consolidation of title was a 'voracious concept' that had not yet been confirmed or clarified by a court (at 41). His caution remains as relevant to territorial disputes in 2022 as to those of 1962: '[T]here may be some danger … that a skilfully directed campaign of propaganda might seem to lay some apparently legal foundation for a forcible seizure of territory' (at

11 See Scott, 'National Encounters with the International Court of Justice: Avoiding Litigating Antarctic Sovereignty', 21 *Melbourne Journal of International Law* (2021) 578; Antarctic Treaty 1980, 402 UNTS 71.

12 *Fisheries* case (*United Kingdom v Norway*), Judgment of 18 December 1951, ICJ Reports (1951) 116.

40). He concludes that, while consolidation may in fact better reflect the judicial process of determining territorial claims via reference to 'objective' evidence and, therefore, 'the true nature of the process of constructing a legal title' (at 50), its dangers direct attention to how recognition, acquiescence and estoppel are in fact made out, which is the subject of his third chapter.

Jennings' third chapter focuses on recognition, or positive acknowledgement, and acquiescence, or absence of protest, as effective instances of state consent to territorial acquisition. The *Temple of Preah Vihear* case had been decided only six months previously, and much of the chapter is preoccupied with issues raised in this case.[13] Here again, Jennings sidesteps questions of decolonization involving 'the emergence of a new State', despite having earlier identified the question of the legality of 'revolt' as precisely one of recognition. He instead focuses on two scenarios involving existing states where the law was largely settled: first, acts of recognition and acquiescence of another state's assertion of acquisition by prescription, which is the scenario in the *Temple of Preah Vihear* case (at 53), and, second, acquisition of portions of the high seas recognized as *res communis*, which is the scenario in the *Norwegian Fisheries* case (at 55).

Jennings notes that recognition by third party states is clearly declaratory only with respect to acquisition by cession and by occupation of lands *terra nullius* and that, while proving acquiescence by the second state is central to acquisition by prescription, recognition by other states is 'strictly irrelevant'. Recognition by states generally, however, was central to acquisition of areas accepted as *res communis* and areas claimed to be under 'immemorial possession'. In both cases, proof of historical consolidation of title could be comprised of instances of such recognition (at 55). As to estoppel, or the prevention of a recognizing state from subsequently contesting validity of title, Jennings quotes the separate opinion of Fitzmaurice in the *Temple of Preah Vihear* case at length, concluding that, while estoppel is a substantive principle central to the operation of acquiescence and may therein prove determinative to territorial claims, it is 'not itself a root of title' (at 67), and the two concepts must therefore be clearly distinguished.

In his fourth chapter, 'Title and Unlawful Force', Jennings considers the effective outlawing of conquest as a mode of territorial acquisition. He begins by affirming that, in the wake of Article 2(4) of the UN Charter and consequent shifts in customary law, there remained no basis on which military conquest could ground a territorial claim. Noting that the rule of intertemporal law protects 'old titles by conquest', he delivers a line the tone of which is lost to time: '[I]f old roots of title are to be dug up and examined against the contemporary rather than the intertemporal law there can be few titles that will escape without question' (at 69). Jennings goes on to observe that, while overt conquest was in itself clearly outlawed as a mode of acquisition, the law as it stood in 1962 left open the question of whether treaties of cession concluded after military invasion were necessarily void *ab initio* or voidable

[13] *Case concerning the Temple of Preah Vihear* (*Cambodia v Thailand*), Judgment of 26 May 1961, ICJ Reports (1961) 17.

only on proof of 'vitiating conduct' led by the ceding party – mere conquest itself being insufficient for that purpose. He notes Lauterpacht's position on the matter, given when he was special rapporteur to the International Law Commission on the law of treaties in 1953: that the logical effect of Article 2(4) was that unlawful force necessarily vitiated any treaties of cession acceded to in its wake (at 73–75). That position was ultimately accepted in the *Vienna Convention on the Law of Treaties*.[14] But Jennings echoes the pragmatist position of Fitzmaurice on the matter, given in 1958 as Lauterpacht's successor as special rapporteur: whatever the merits of holding such treaties to be void *ab initio*, in practice, 'repudiation' of a treaty imposed in the wake of unlawful conquest could likely only be carried out by 'further acts of violence', and, therefore, 'peace may, in certain circumstances, have to take precedence for the time being over abstract justice' (at 76).

Jennings pushes from there to his conclusion, which threatens to collapse the distinction between title and possession with which he commenced his lectures: while unlawful force itself could no longer ground a claim to title, unlawful force when combined with effective possession, on the one hand, and subsequent recognition by states generally, on the other, could nevertheless do so (at 79). Whether recognition in such circumstances was constitutive or declaratory was, in his view, 'a distinction without a difference' (at 79). In some circumstances, it would simply be unclear to third party states, and, ultimately, to the Court itself, whether a claim to acquisition by cession was in fact a claim to acquisition by unlawful force (or *vice versa*), and, in such circumstances, pragmatism – or order or peace, however established – had to rule the day: '[W]e have to fashion a law which will operate in a society where as yet there is no system of compulsory jurisdiction' (at 81).

This patrician concern to 'fashion a law' in the absence of compulsory jurisdiction underlies the arguments that Jennings goes on to make in his final chapter, 'Legal Claims and Political Claims'. The chapter differs in purpose and tone from the preceding four chapters. It creaks with the weight of subtext, not all of it legible to the contemporary reader. Jennings begins by returning to an earlier point: the law of territorial acquisition that he has just spent four chapters sketching out 'seem(s) to have played a relatively minor role in actual territorial changes' (at 86). The applicable law amounted to no more than 'a system of conveyancing law' with 'little or nothing' to do with the underlying 'policy question': '[W]hether territory should be conveyed at all, and to whom' (at 86). Until the outlawing of the use of force and the resulting invalidation of conquest as a mode of acquisition, 'the great historical redistributions of territory' had largely occurred via peace treaties 'in which the victor's will had been applied by constraint' (at 86). The key question for the 20th-century law of territorial acquisition, then, was 'what constitutional procedures of change' could 'take the place of the old law of self-help' (at 87) with respect

[14] Vienna Convention on the Law of Treaties 1969, 1155 UNTS 331, Arts 52, 69; see also Rozakis, 'The Law on Invalidity of Treaties: An Analysis of the Legal Rules on Invalidity under the Vienna Convention on the Law of Treaties', 16(2) *Archiv des Völkerrechts* (1974) 150.

to territorial claims. And this question, his final chapter concludes, is not one that is properly answerable by a court but only by a 'quasi-legislative body'. And whatever the various functions of the organs of the UN, none of them was fit for that purpose (at 104).

Jennings' text thus deftly sidesteps and postpones the fundamental questions of anti-colonial justice that some Manchester students at least would have expected to be addressed in a lecture series on the acquisition of territory given in December 1962. The reading down of global anti-colonial movements to a 'policy question' beyond the strict concerns of jurists says much about the culture of British international law in the early 1960s. Jennings uses law to relegate calls for colonizing powers to be held to account to some future time, in some differently constituted international system. The law of territory he summarizes not only forgives colonial dispossession where successful; it also thereby prevents anti-colonial claims for justice from being expressed as legal claims.

The volatility, if not absurdity, of a body of law that outlaws the use of force and distinguishes between title to and effective possession of territory, only to then offer various means by which possession established by unlawful force can form a good root to title – whether by cession, acquiescence or recognition however gained – appears at first to be of little concern to Jennings. Whatever one may think of it, successful illegal occupation can in time ripen into good title, if possession is effective and general recognition is established. That is the law, and jurists should confine themselves to it: '[T]he bias of the existing law is towards stability, the *status quo*, and the present effective possession; the tendency of international courts is to let sleeping dogs lie' (at 87). But in this final chapter, Jennings allows himself a personal opinion on the sustainability of such legal conservatism: '[A] law which … seems to sanction only the maintenance of the *status quo,* is not likely to survive without serious modification in a still rapidly developing society of States. There ought to be some machinery for change which is apt to reflect the sentiment of States generally' (at 87). In the absence of such machinery, all that could be done was to distinguish between legal and political claims to territory; strictly apply the law to the former; and observe emerging 'conventions or standards, rather than principles of law' with respect to the latter (at 88). To that end, Jennings notes relevant passages of jurisprudence on geographic contiguity, historical continuity and self-determination, all of which he relegates as 'quasi-legal ideas' relevant to political questions as to which entity should – as opposed to which entity in law or fact does – hold title to territory. Aside from where such questions arose with respect to territories designated as trust territories or non-self-governing territories under Chapters X and XI of the UN Charter (at 98–99), any decision on such questions was a procedural matter for a future 'quasi-legislative' body to decide (at 99).

Jennings thus cautions against any expectation of the law of territorial acquisition itself to deliver satisfaction to anti-colonial movements in the absence of serious structural change to the international legal system – an end towards which that system offered no viable means. There is a progressive interpretation open on the text: do not expect the law to deliver justice; make your claims politically. Jennings' later defence

of Fitzmaurice, whom he deeply admired as a fellow traveller in the 'English school' of international law,[15] may thus also have been autobiographical:

> He suffered resignedly but sharply from the misunderstandings of some who mistook his insistence on juridical integrity for political naivety and legal conservatism. Nothing could have been wider of the mark. Rather it was because he was acutely aware of the political need for change, and timely change at that, and, moreover, of the high political relevance of international law, that he saw so clearly the dangers, especially for judges, of trying to cut juridical corners in order to accommodate immediate pressures; and thus inevitably jeopardize the integrity, and therefore ultimately also the authority, of the very system which must be the vehicle of change.[16]

These are entirely pragmatic and, even now, almost persuasive concerns. But, on a critical reading, the fact that the limitations that Jennings insist upon work only to the benefit of imperial powers once again illuminates the basic paradox at the heart of international law's claim to universality, so thoroughly exposed by the Third World Approaches to International Law movement and others: the best available universal is always – even if temporarily, even if regrettably – the European one, the white one, the capitalist one, the liberal one, the secular Christian one, the expert one. 'Political change' is desirable in theory, but only to the extent that it poses no threat to the authority of the existing system or the dominance of those it serves.

Across his career, Jennings maintained a paternalist concern with the absence of a 'grown-up' legislative analogue for peaceful change in international law on the one hand, and exasperation at the emanations of the General Assembly on the other.[17] He understood, and rightly so, that the ICJ alone could not bear the weight of Third World expectations. His answer was a politically representative body that could negotiate and decide upon binding law more reflective of 'new policies and developments'. But that body was not the one that issued Resolution 1514 in 1960, which, on his reading, lacked due 'caution' in its conflation of legal and non-legal rights (at 100).[18] Jennings' refusal to entertain the capacity of the General Assembly to become a source of law, as opposed to a mere catalogue of indicia of state practice, suggests that his pragmatism worked in one direction only: in favour of continued European dominance of the international legal system. The notion that any new legislative body comprised of 'new' international subjects would inevitably be unpredictable, dissonant with existing principle, and conflicted in its decision-making, is not entertained. The final passages of *Acquisition of Territory* walk a poignant line. On the one hand, Jennings is aware that radical change to the structure of international law will eventually be necessary, if it is to maintain its claim to authority beyond those it has developed to serve. On the other, he is intolerant of the undisciplined and unruly nature of the radical

15 Cassese, 'Interview with Sir Robert Jennings: October 1994', in A. Cassese, *Five Masters of International Law: Conversations with R-J Dupuy, E Jiménez de Aréchaga, R Jennings, L Henkin and O Schachter* (2011) 119, at 126, 139.

16 Jennings, 'Gerald Gray Fitzmaurice', 55 *BYIL* (1984) 1, at 22.

17 Cassese, *supra* note 15, at 157.

18 GA Res. 1514, 14 December 1960.

challenges to that system happening in fact, at that moment, in the General Assembly and beyond. Amongst his kind, then and now, he is hardly alone.

The Acquisition of Territory in International Law has been an indispensable work in the field for 60 years. It remains so, if for shifting reasons. Jennings' treatment of the applicable law is so succinct – and his bald statements of fact as to the nature of international law so unapologetic – that the text will invariably reward close re-reading by international lawyers of all persuasions. As a historical document, Jennings' text is so dense with meaning that it offers a real window into a key imperial stronghold of early 1960s international law. This second edition, published in 2017, is bookended by Marcelo Kohen's illuminating New Introduction and the original appendix, Huber's *Island of Palmas* decision. Kohen, currently Secretary-General of the Institute of International Law, is himself a pre-eminent expert in the contemporary law of territory.[19] The new edition thus offers a triad of expert interventions in a century's development of the international law of territory. It remains a classic not only of its subject matter but also of a historical genre of doctrinal scholarship – not to mention of a time when the principles at the 'core of the whole system of international law' could confidently be explained in 90 pages. Dame Rosalyn Higgins noted in her 2004 obituary of Jennings that *Acquisition of Territory* was 'still today frequently invoked in litigation' and remained 'appreciated for its analytic content and its author's prescient ability to see all the dimensions of the issues under consideration'.[20] Vaughan Lowe, in his obituary of Jennings, stated that *Acquisition of Territory* was 'not only a classic exposition of the subject and often quoted, but a model of clarity and economy in its analysis and presentation'.[21] Towards the end of his career, Jennings acknowledged *Acquisition of Territory* as one of his most influential works. But the origins of the project were prosaic: were it not for the invitation from his friend and 'fellow Yorkshireman', Professor Ben Wortley, to give the Melland Schill lectures at Manchester, he 'might never have written that little book'.[22] It was to the benefit of all students of territory that he did.

[19] M.G. Kohen, *Possession contestée et souveraineté territorial*, preface de Georges Abi-Saab (1997); M.G. Kohen and M. Hébié (eds), *Research Handbook on Territorial Disputes in International Law* (2018).

[20] Higgins, 'Robert Yewdall Jennings: 1913–2004', 75 *BYIL* (2004) 1, at 1.

[21] V. Lowe, 'Obituary: Sir Robert Jennings; Pragmatic President of the International Court of Justice', *The Independent* (11 August 2004), at 33.

[22] Cassese, *supra* note 15, at 153.