

General Introduction

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international law

public international law

international law universal international law general
particular international law

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J. Ausitín) “ ”

positive morality

2 “ ” international comity

3 “ ” weak law “ ” soft law

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1648

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2 1625

3 1789

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1648 1917

1 1917

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3 1928

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(1827 1916)

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formal sources

material sources

38

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1

international treaty

general treaty

special treaty

contractual treaty

law-making treaty



2

international custom

a.

b. “ ” opinio juris

3. general principles of law

“ ”

res judicata

bona fide

pacta sunt servanda

estoppel

jus abutendi

ex injuria jus non oritur

4

1 judicial decision writings of publicists

2 ex aequo et bono

3 resolutions of international organization

\ monism
\ dualism or pluralism
\ theories of Co-ordination

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(Basic Principle of International Law)

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、jus cogens

state sovereignty



、 non use of force
1

2 definition of aggression
1974 12 14

、 non-intervention

“ ” “ ” humanitarian intervention
、 domestic jurisdiction

equality and mutual benefit

self-determination of peoples

international cooperation

“ ” “ ”

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“ ” “ ”

Five Principles of Peaceful Co-existence

1954

“ ”



Military and Paramilitary Activities in against Nicaragua

1983 1984

1984 4

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Subject of International Law

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1 permanent population

2 defined territory

3 government

4 sovereignty

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unitary state composite states

independent country dependent country

permanent neutralized state

mini-state

fundamental rights

1 right of independence

2 right of equality

1

2

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3 right of self-preservation

right of national defence

right of self-defence

a

b

c

4 jurisdiction

1 territorial jurisdiction

2 personal jurisdiction

3 protective jurisdiction

4 universal jurisdiction



the lotus case

1926 8 2

5 state immunity

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” par in parem non habet jurisdiction

the doctrine of absolute immunity

the doctrine of relative or restrictive immunity



1909

1911

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600

1938

1951

1979

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1982 9 1

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constitutive theory

declaratory theory

recognition of states

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(Succession of State and Government)

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state succession

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“ ” personal treaties

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“ ”、dispositive treaties “ ”、non-

personal treaties

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1978

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succession of governments

1917

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5 1950

1961

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1967

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1972 9 29

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1977 9 16

1977 10

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1982 4 14

1986 2 4

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The Institution of Nationality

nationality

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original nationality

nationality by

birth

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3

2

acquired nationality

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1930

1961

1980

Legal Status of Aliens

treatment of aliens

1 national treatment

2 most-favored-nation treatment

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3 Treatment of Generalized System of Preference

4

“ ” minimum international standard

diplomatic protection

1

effective nationality

exhaustion of local remedies



			1905					
		1905-1939				1931		
1939	3							
				1939	10	13		10 20
			1939	12	1			
1941	12	11			1943	11	19	
							1946	1 22
								1946 1
							1946	7 24
1944	12	20						
	1951	12	10					

\ extradition

1

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\ double criminality

\ principle of identity

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principle of specialty

reextradition

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asylum

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1948

1967

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1948

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1951

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(State Territory)

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(territory)

(territorial sovereignty)



Malvinas Islands, Battle of

1982

1833

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1200	5	6	100	,	1.37

land territory

territorial water

internal water

territorial sea

territorial airspace

subsoil

“ ”

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modes of acquisition and loss territory

1

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1

occupation

terranullius



(The Palmas Island Arbitration)

16

1677

1898

1906

1925 1



2 prescription

3 accretion

4 cession

5 conquest

\ referendum

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1 \ boundary

“ ”

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\ natural boundary

\ geometrical boundary

\ celestial boundary

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frontier

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15 000

18 000

1 Antarctic

sector Principle)

1959

2 Arctic Regions

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3 “ ”

(The Law of Sea)

1982

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1958

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b

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1930

1958

1973

1982

1994 11 16

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1994 7

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1979

the territorial sea

12

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(innocent passage)



\ corfu channel case

1946

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1946 10 22

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11 12 13

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1947 4 9

1947 5 22

1947 7 2

1 1946 10 22

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2 10 22 11 12 13

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(contiguous zone

24

“ ”

12

(exclusive economic zone)

1

200

2



2003 11 12

8

1 2 “P-3C”

“ ” 2 P-3C

40

18

2 P-3C

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(exclusive economic zone)

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200

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2003 11 12

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continental shelf

1

1958

1982

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200

200

, 200

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3

a

B

C 200

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(The North Sea Continental Shelf Case)

1966

1967 2

1969 2 20

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strait used for international navigation

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transit passage

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archipelagic waters

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1:1 9:1 2

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high sea

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\ piracy

\ right of visit

\ right of hot pursuit

\ international seabed area

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\ the common heritage of mankind

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1994 7 28

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air law ()

outer space law

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1919

1944

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1963

1970

1971

1944

1919

1 Aircraft

2 aircraft nationality

3 scheduled flight non-
scheduled flight

4

transit right

1963

1970

1971

1988

1991

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1983

296

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1983 7 18

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1989 12 16
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1990 4 28
1990 7 18
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1988 12 21 103

1991 11

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1991 11 21

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1966

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1974

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Law of Diplomatic Relations

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head of state head of government
ministry of foreign affairs

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1648

1815

19 20

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customary international law

conventional international law 1961

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right of legation

embassy

2

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the members of the mission

1

A

diplomatic agents/representatives

head of missions

ambassador

minister

B

members of the administrative and technical staff

C

members of the service staff

2

agreement

persona non grata

3

4

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1969 12 8

3

diplomatic privileges and

immunities

1

1961

1946

1947

1969

1975

\ theory of exterritoriality/extra-territoriality

\ theory of representative character

\ theory of functional necessity

2

\ inviolability

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Case Concerning United States Diplomatic and Consular Staff in Tehran

1979 11 4

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1979 11 4

1999 5 8

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1999 7 30

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Responsibilities in International Law

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internationally wrongful acts

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a

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international crime

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1 consent

2 countermeasures

3 force majeure and fortuitous event

4 distress and the state of necessity

1.

2. reparation

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Trail Smelter Arbitration

1896

1931

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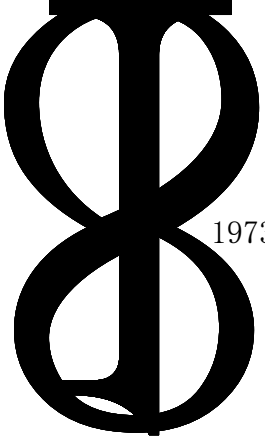
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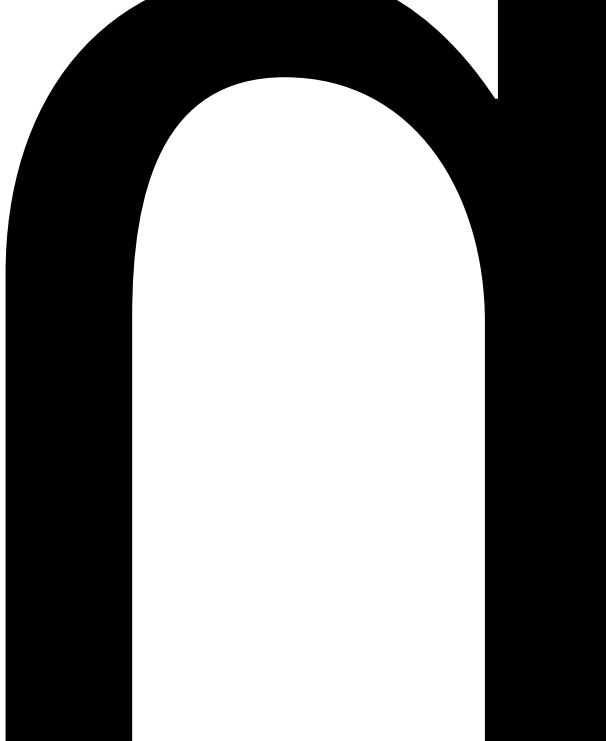
1966 1972

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(peaceful settlement of international disputes

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\ General

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\ international disputes

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justiciable dispute

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non-justiciable dispute ;

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Political Methods of Settlement

negotiation

inquiry investigation

good office mediation

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conciliation

Legal Methods of Settlement

international arbitration

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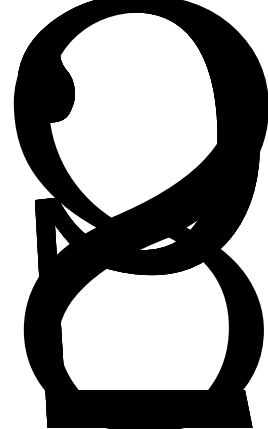
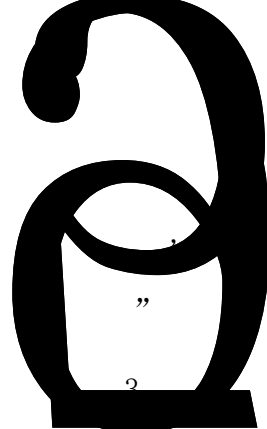
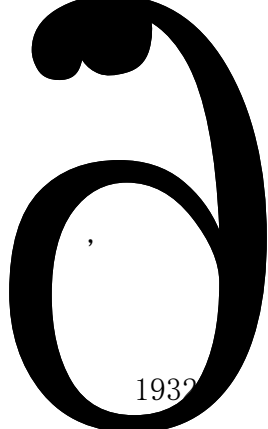
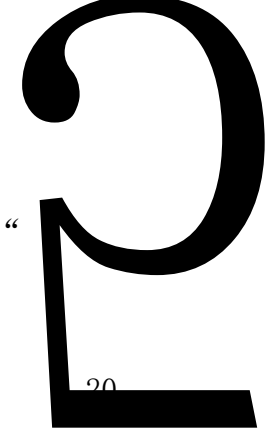
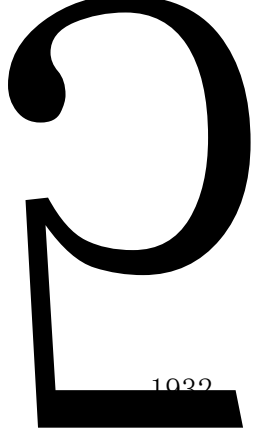
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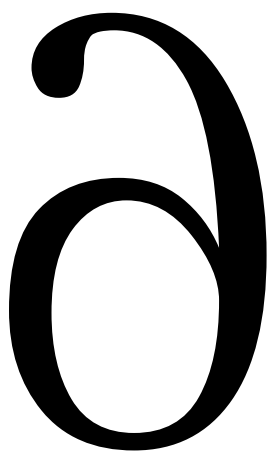
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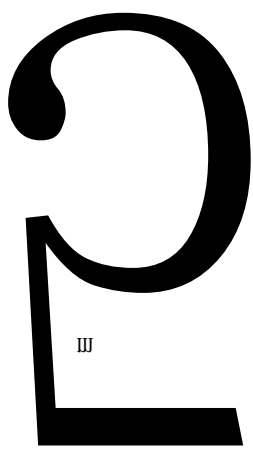
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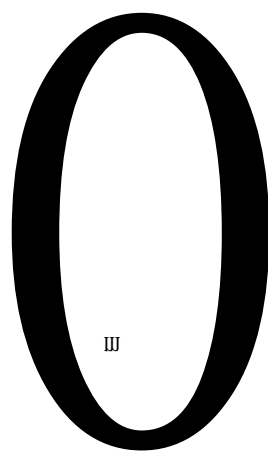
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III



III



III

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1907 1918

1982

2 Permanent Court of International Justice

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International Court of Justice

1946 ,

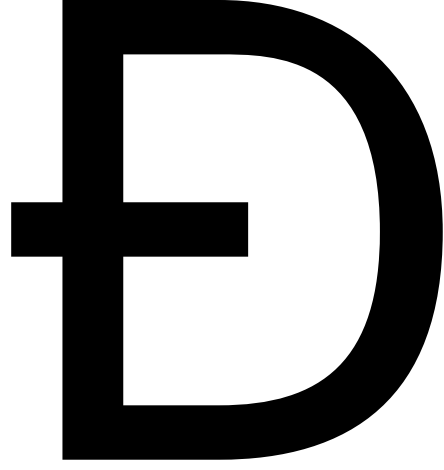
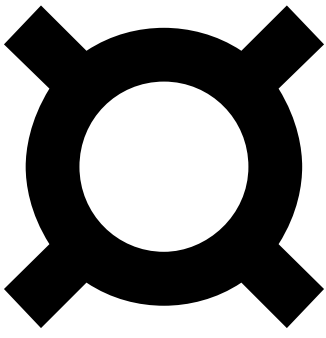
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The Law of War



state of war

a.

b.

c.

d.

means of warfare

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\ belligerents

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\ prisoners of war

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\ neutrality and law of neutrality

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1976

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1981

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1997

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1971

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1984

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1981