

BOOK REVIEWS

EDITED BY A.U. DE SAPERE

U.N. Fund for Population Activities: Annual Review of Population Law 1979

Edited by Paul E. Mason, Winchester, Mass: United Nations Fund for Population Activities.

Worldwide legislation affecting families has attracted little public interest in the past, but will increasingly affect our societies as nations wrestle with mounting demographic problems.

In the *Annual Review of Population Law, 1979* editor Paul E. Mason has provided a comprehensive and easy-to-read research work outlining in detail the year's world legislation affecting population.

In addition to providing an excellent research tool for lawyer or layman trying to follow legal change in specific nations, the review also provides an interesting insight into the varying approaches taken by different societies toward some of the most contested social issues. It contrasts recent prohibition of abortion in Hungary, for example, to the relative permissiveness of China.

Of particular interest in this excellent outline of world trends is the continuing trend of European nations to extend parental leave and reemployment rights for new mothers. These European trends are but forerunners of further pro-natal legislation as the Western industrialized nations face the consequences of their dangerously low fertility. West and East Germany, for instance, have fewer than 1.5 children per family while 2.1 are necessary to replace the older generation—a shortfall that foretells a loss of 25 percent of their population at each twenty-year generation.

The United States, also with below replacement level fertility, is now beginning to feel the economic difficulties of supporting an increasingly large number of old people with a dwindling number of taxpayers supporting Social Security. It can be expected that as these problems multiply, the nation will gradually turn to increasingly pro-natal legislation, as have the

Europeans. The process will be of great interest to legislators, lawyers, social scientists, demographers, strategists and statesmen.

In short, population law will be an important indicator of the future economic and military power of Western nations.

The Annual Review of Population Law provides an excellent tool for those assessing the future potential of nations and should be of interest to many professional groups in addition to the legal fraternity.

Paul Mason has edited a well-indexed document that provides valuable insights into the future of nations.

ROBERT DE MARCELLUS
Palm Beach

The Laws of Armed Conflict: A Collection of Conventions, Resolutions and Other Documents

Dietrich Schindler, and Jiri Toman, editors. Rockville, Maryland: Sijthoff and Noordhoff, 1981. 2nd edition. \$105.00, 932 pp.

Sir Hersch Lauterpacht is credited with having said, "if international law is the weakest of all law, then the law of war is virtually its vanishing point." The sheer bulk of this collection of documents by Schindler and Toman stands as evidence of the continuing commitment of nations to the growth of *jus in bello*, the law of armed conflict, as an instrument for regulating state conduct during hostilities. As the editors correctly note in their introduction, "the laws of war were the first part of international law to be codified."

Eighty documents are reproduced in this volume, many of which have been difficult to obtain in recent times since no comprehensive worldwide collection of the laws of armed conflict have been published since 1943. The United States Air Force, for example, has reproduced law of armed conflict documents in its Air Force Pamphlet 110-20, dated July 27, 1981, at Chapter 3, but these are texts relevant to the United States.

The editors have appropriately defined the parameters of their collection. Included are all multilateral conventions on the law of armed conflict which are in force, which have not (or not yet) entered into force as well as those no longer in force. Also included are the final acts and resolutions adopted by intergovernmental conferences which drew up the conventions reproduced. No national regulations are published except for the U.S. Lieber Code (General Orders No. 100) which marked the beginning of the codification of the law of armed conflict in 1863. Excluded also is *jus ad bellum* (the law governing the resort to force as an instrument of foreign policy), arms limitation agreements, and agreements concerning neutralization,

demilitarization, denuclearization of certain territories and conventions on human rights. Rightly so, this volume draws together only the codified law of armed conflict, that is, the law applicable to the use of force *in* conflict.

Documents are arranged into eleven basic chapters: general rules concerning the conduct of hostilities, methods and means of warfare, air warfare, protection of populations against the effects of hostilities, victims of war (wounded, sick, prisoners and civilians), protection of cultural property, warfare on sea, civil war, application of the law of armed conflict to hostilities in which United Nations Forces are engaged, war crimes, and neutrality. Minor overlappings in chapters are inevitable but on the whole the editors have done excellent work. Within each chapter the texts are reproduced in chronological order with introductory note, identification of authentic text and places where previously published. Also a list of signatures, ratifications, accessions, notification of continuity and reservations are provided. Researchers will find the reproduction of all reservations with their full text even if not maintained or subsequently withdrawn of great utility. It is unfortunate that the information is current only as of April 30, 1978 unless otherwise indicated. Yet even with a greater effort in this regard, information of this nature is time sensitive. Thus, for example, the ratification and accession list for the Protocols Additional to the 1949 Geneva Conventions (Documents 48 and 49) although prepared through mid-1980 do not reflect Bangladesh (as of September 8, 1980) nor Laos (November 18, 1980) as parties to these agreements. For up-to-date information of this kind a researcher would be well advised to consult the Treaty Affairs Staff, Office of the Legal Advisor, U.S. Department of State.

A useful research tool prepared by the editors is a chronological listing of all documents reproduced in the volume. This provides an excellent historical continuum and permits the placing of documents within a historical context.

The first edition appeared in 1973. This edition contains eight new documents not previously reproduced: Basic Principles of Legal Status of Combatants Struggling Against Colonial and Alien Domination and Racist Regimes (UNGA Resolution 3103 (XXVIII)); Declaration on the Protection of Women and Children in Emergency and Armed Conflict (UNGA Resolution 3318 (XXIX)); Conditions of Application of Rules, Other Than Humanitarian Rules, of Armed Conflict to Hostilities in Which United Nations Forces May Be Engaged (Resolution adopted by the Institute of International Law at its Session in Wiesbaden); Convention on the Prohibition of Military and Other Use of Environmental Modification Techniques; Resolution of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law; Protocols I and II Additional to the 1949 Geneva Conventions; and the Final Act of the Diplomatic Conference on Reaffirmation and Development of International Humanitarian Law. Although this volume brings together a wealth of information on the subject the addition of eight documents over the first edition and its price

may well deter many from purchasing this work who would find it most useful. Libraries would be well advised to acquire this volume as a basic reference work.

RICHARD J. ERICKSON
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A Lawyer's Guide to International Business Transactions

By Walter Sterling Surrey and Don Wallace, Jr., editors. Philadelphia, Pennsylvania: ALI-ABA Committee on Continuing Professional Education, 1980 (2nd edition, Part IV). Pg. 471. \$55 plus \$7.50 postage and handling.

This book was written to "examine the most important regional trade initiatives as well as recent developments in the law, such as international environmental controls, which will have an important impact on future international business transactions." This description explains both the successes and weaknesses of the volume. As the last, catch-all volume of an excellent series it includes sections which, while essential to round out the series, are typical loose ends which refuse to be neatly tucked away elsewhere.

Each of the eight sections is written with the balance and insight only gained through intimate familiarity with the subject matter. The text is uniformly lucid, and tightly edited. Each section begins at the beginning of each topic; provides ample, well-written footnotes; and thoroughly covers the topic assigned. The coverage is so thorough, in fact, that practitioners whose practice is covered by one of the subjects will want to have a copy of this volume for reference in their daily work because of the tight organization, editing, substantive footnotes and excellent bibliographies which accompany each section.

Because the only real theme of this volume is the absence of a coherent theme I will address each section as an independent whole, because it seems most likely that this is how this volume will be primarily used.

Section 1. David M. Sassoon's "Procurement by Developing Countries" nominally explains international public procurement by developing countries. It is the best synthesis of the somewhat esoteric world of international government procurement this writer, a practitioner in this area of law, has discovered. Mr. Sassoon brings to his assignment a civilian lawyer's background tempered by years of experience as the World Bank's legal advisor for procurement matters. If the section relies too heavily on World Bank

practices and procedures, this can be forgiven in light of the quality of that standard.

Section 2. "United States Capital Controls to Assist the Balance of Payments," by Robert A. Anthony. This short section addresses the now dismantled capital controls program of the Nixon Administration.

The section provides an excellent picture of the policy and function of the now dormant program which would be "must reading" for any international-business lawyer faced at home with a clone of the United States program at some future date, or when faced with present capital controls abroad.

Mr. Anthony's coverage of the topic could have explored the significant role of this program in the explosive growth of the eurocurrency market. A comprehensive analysis of the consequences of this program with the benefit of our present historical perspective would be a welcome expansion.

Section 3. "International Legal Protection of the Environment," by Rae Bolyan. The author approaches a topic prone to exaggeration with balance and moderation, yet sensitivity for an increasingly significant topic. The section's "emphasis [is] on how [the] development [of U.S. foreign and international environmental law] is related to and will affect the nature of international trade and foreign commercial operations."

Unfortunately, this rapidly changing field of law is hurt by the delay between writing and publication. The holding in *Natural Resources Defense Council v. Nuclear Regulatory Commission*, 647 F.2d 1345 (D.C. Cir. 1981), that NEPA may not have extraterritorial reach, and the present Administration's actions on the Carter Administration's Executive Order on the export of hazardous substances are examples of developments that have occurred since the section was written.

Nonetheless, the section presents a carefully crafted explanation of the international regime of laws designed to protect the environment, and skillfully handles footnotes, thereby providing detailed support for an artfully synthesized text.¹

Section 4. "The EEC" by Wm. C. Benjamin, George L. Bustin, Ian S. Forrester, Christof Fritzen, Jean Leygonie and Mario Siragusa. This section clearly explains the enabling agreements and history of the European Communities: the organizations; policies; practice, procedures and substantive rules on specific issues. It is well documented, and followed by an exhaustive bibliography organized by the major headings of the section.

For the uninformed, or practitioner whose practice has focused his attention in other areas, this section is very informative. I found the degree of uniformity reached on issues of common concern to the member nations and their trading partners surprising. Counsel involved in advising corporate clients on possible market-entry mechanisms would be remiss unless he

¹The invaluable assistance of Eldon V. C. Greenberg, Tuttle & Taylor, Washington, D.C. in the preparation of this subheading is greatly acknowledged.

considers the benefits, explained so well in this section, that are available as a result of a manufacturing presence in a member-state or preferred trading territory. The European market is just too big and significant to leave to others.

In a critical vein, the section is slim on tactics and "street wise" insight to help the practitioner know the unwritten, as well as the written, rules and tensions.

Section 5. "Legal Framework for Foreign Investment in Latin America" by Robert C. Helander. At one point the author refers to a "useful survey by knowledgeable commentators." Although intended by Mr. Helander as a reference to the work of others it is an equally apt description of his work. The overview of the legal, historical and cultural influences that distinguish this part of the world is somehow synthesized and generalized without being watered down. The cultural insights help the uninitiated to distinguish form from substance while providing an excellent bibliography for further explanation of the black-letter law of which the section is comprised. One wonders why a similar section on Africa, the Middle East and Asia is missing.

Section 6. "Japan," by Ko-Yung Tung and David Drabkin. The authors describe issues in a manner that holds the interest of the casual reader, yet provides enough practical substance to deal with a variety of specific issues an attorney with problems in Japan needs to know, such as Japanese rules of jurisdiction, and conflict of laws. The discussion of the cultural influences on the law and lawyers is well done without being overstated. Similarly well handled is the discussion of the current trend in Japan toward increased reliance on lawyers in international trade matters. The practical consequences of Japanese labor practices are also well explained.

In a system that assumes "lifetime" employment, job mobility as we know it does not exist. Therefore the best Japanese minds are unlikely to be tempted to join a new foreign undertaking when the long-term commitment of a new company to a continued Japanese presence is untested. If the foreign firm folds, the displaced worker or executive has no corporate family to fall back on. Is it any wonder joint ventures are the way foreigners do business in Japan? Because contracts are used to memorialize agreements, it is easy to understand why a Japanese businessman would be insulted if presented with a draft agreement as a basis for negotiations.

In light of these hard-won insights, the occasional ponderous text, and failure to note the great prestige enjoyed by Japanese civil servants can be overlooked. Also forgivable is the section's failure to stress the patronage connotation associated with a position in the House of Councilors; and the fast-track, more powerful nature of the House of Representatives from which all Prime Ministers have come.²

²The invaluable assistance of Dr. C. A. Allen, American University, Washington, D.C. in the preparation of this subheading is gratefully acknowledged.

Section 7. "Legal Aspects of Foreign Investment in Developing Countries" by William H. Barringer. This section is designed to provide an annotated checklist of considerations the international business lawyer will want to explore before recommending specific courses of action to a client considering establishing an LDC presence. The topic is really too broad to be treated comprehensively in the space allotted the author. The section discusses issues, gives references of what the most likely options are, cites trends, and moves on. Once having stepped back and seen the range of possibilities from which the host country is likely to draw and getting an up-to-date critique of current trends you can go forward with your eyes open.

Section 8. "The Foreign Agents Registration Act of 1978" by Don Wallace, Jr. and Daniel F. O'Keefe, Jr. This concise summary of a little publicized domestic statute is just what the doctor ordered. It explains the law, explains its significant legislative history, provides key definitions and then covers exceptions and their application. It's then followed by a good bibliography for further analysis as necessary.

In summary, the book is a jewel if occasionally flawed. I have no hesitation in recommending it to the experienced and novice international business practitioner alike.

RALPH C. OSER
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Arbitration in Taxation

Gustaf Lindencrona and Nils Mattson. Kluwer Law & Taxation Publishers, Devenser, The Netherlands. 80 pages. D.fl. 45.

This book considers the feasibility of employing international arbitration procedures to solve tax controversies and of creating a world tax tribunal.

The perfection of the international tax system and the creation of a world tax court were the two subjects which the members of the Tax Section of the World Association of Lawyers considered to be of the greatest interest when that Section was set up in 1978. From that interest this study developed.

The authors are professors of fiscal law at the Universities of Stockholm and Uppsala. In the foreward to the book they refer to work which has already been conducted; in particular to the Fifth Congress of the International Fiscal Association in Zurich in 1951, the activities of the International Bar Association and the EEC Council Directive of 25 November, 1976, which deals with the elimination of double taxation in connection with the adjustment of transfers of profits between associated enterprises

and which provides for an arbitration procedure. Although the provisions of this directive would be applicable only on the relatively limited aspect of taxation with which it is concerned the authors find it of interest in other fields of international taxation.

In describing the development of arbitration through double taxation conventions the authors review in a few pages the different methods of resolving conflict in double taxation conventions. Their references are mostly to old and defunct treaties; they refer to the agreement of April 14, 1926, between the United Kingdom and Ireland, and of June 20, 1934, between Czechoslovakia and Rumania, and the multilateral convention of April 6, 1922, which only entered into force between Italy and Austria, and the convention of October 31, 1925, between Germany and Italy. Nevertheless they illustrate two methods: negotiation between competent authorities and some other procedure by an impartial body outside the authorities.

Negotiation is not satisfactory. There is no guarantee that the matter would be brought up for negotiation when a dispute arises and even then there is no obligation between the contracting states to reach an agreement. Also, if an agreement is reached there is no guarantee that it would follow any fundamental legal principles. Although *ad hoc* arbitration has been used the authors point out that there is an obvious risk to the use of this method since the attitude of authorities will be conditioned by their expectation of winning or losing, as they will have been able to assess their chances before agreeing to this type of arbitration.

The authors consider the various methods by which arbitration can be brought about: in particular through the International Chamber of Commerce, the Arbitration Institute of the Stockholm Chamber of Commerce and the International Centre for the Settlement of Investment Disputes. Alongside this they also consider the role of international courts, the Permanent Court of Arbitration and the Permanent Court of International Justice, and its successor, the International Court of Justice.

The conclusion and the recommendation can be briefly stated by quoting from their summary:

We propose the model of an arbitration commission, appointed for each dispute. Even though an International Tax Court may appear in the longer term to be more attractive and more fruitful, it can be advisable to work with arbitration commissions as an intermediate stage. This approach can lead to valuable experience being gained. We think that the historical evidence has clearly shown that it is impossible to start with such a big step as the establishment of a world tax court.

This proposition is supported by various arguments all of which prove to be stimulating and will doubtless prove to be influential on any developments which may take place in this field.

Although there is little which is of immediate practical use in this book anyone concerned with international taxation in its broadest sense and who is interested in developments or who has an ability to affect such developments cannot ignore these proposals. They are succinctly stated and easily

read. Even the most hectic practitioner concerned with only the solution of immediate problems in disputes in international taxation could do well to read this book for new depth in the subject; he would not be put off with an excessively theoretical treatment.

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The Invisible Victim

Robert Reiff, Basic Books, 1980. 219 pages. \$11.95.

Criminals and Victims

Lois Forer, W.W. Norton, 1980. 333 pages. \$14.95.

Dr. Reiff correctly notes that our society has paid great attention to the rights of criminals and has virtually ignored the victims of crimes. Dr. Reiff's solution is to make the victims visible (which is good) and to provide them with a Crime Victim's Bill of Rights (which sounds a lot better than it really is).

Refreshingly Dr. Reiff's solution is via legislation rather than some newly proclaimed constitutional right. Unfortunately, his solution really would not provide the kinds of immediate relief he argues that victims need and are not now receiving. Natural disaster victims need immediate relief, and they get it from the government without a great deal of red tape. According to Dr. Reiff, the only difference between them and crime victims is that disasters strike groups of people simultaneously and make the papers and the six o'clock news. They are visible. Crimes strike one at a time, and their victims are usually invisible because there is no news coverage for the run of the mill robbery, mugging, etc. He would like to see crime victims receive the kind of immediate relief available to natural disaster victims, and that is essentially what his Crime Victim's Bill of Rights is meant to do.

It sounds quite logical, and if money were no object I would support it. The problem is that somebody has to pay for this Bill of Rights, and how do you distribute tax dollars without fairly tight procedures? New York City, where Dr. Reiff did much of his research and which has recently learned economics the hard way, hasn't found out yet. See, for example, *The Houston Chronicle*, November 16, 1980: Betty McAlister, widow of a murdered New Yorker, applied for compensation to New York City's Crime Compensation Board three years ago, immediately after her husband was murdered. Not a penny yet. Red tape and technicalities. Applicants must disclose all pensions, annuities, securities, mortgages, old income taxes, etc.

New York's situation is admittedly extreme, but it does squarely put in focus a government's desire to do something for crime victims on the one hand, and New York certainly is aware of the crime problem, and the need for fiscal accountability. New York almost went under a few years ago, and the procedures it put in place for crime victim compensation are not so much an indication of callousness as of economic self-preservation. This is the point Dr. Reiff misses. Dr. Reiff's Bill of Rights sounds good, but I don't know how you fund it out of public funds without the controls which limit the effectiveness of the victim's rights. Catch 22.

On another level, the book is terribly bloated. The message could have been conveyed effectively in thirty or forty pages. Why an editor would conclude there is a market for an endless flow of gratuitous opinions and teeth grinding tautologies is a mystery. Surely not style or wit or elegance or clarity of language. It is not that the subject does not deserve book length treatment; it is simply that this author's treatment does not.

A couple of for instances:

The author tells us that in high crime areas the poor and aged ". . . are daily victimized by landlords, merchants and service organizations. Victimization is the normal pattern of existence to be endured." No footnotes. No Jane Addams cited here, just Dr. Reiff telling it like it is. He states elsewhere that "the F.B.I. [Uniform Crime] Report distorts the true crime rate, misleads the public about the number of victims, and covers up significant failures of the criminal justice system. . . . A considerable gap exists between the number of crimes reported by the police and those that actually occur. The gap has been called 'the dark figure' of crime. . . ." The footnote lists as a source for the dark figure the same F.B.I. Report he just got through telling us distorts, misleads, etc. Finally, did you know, and this is the last *pensée* to be inflicted on you, gentle reader, but by no means the last of Dr. Reiff's, that in the usual plea bargaining, "The judge, the prosecutor and the defense are all guilty of complicity in perjury"? Yes indeed. Dr. Reiff says so on page 98. Are you beginning to get the picture?

Make convicted criminals read Dr. Reiff's book and you have the deterrent effect of tying someone to an anthill. The criminal chic at Lewisburg and Eglin whose hardships consist of fallen souffles and nonvintage wine would opt for a cell in Plaquemines Parish to avoid it. If Dr. Reiff ever decides to write a book about visible victims he might start with the readership of this book. This is a dreadful book about an important subject.

Another look at criminals and victims is Judge Forer's *Criminals and Victims*. Judge Forer speaks as a trial judge in Philadelphia. She has not been talking to Professor Reiff apparently because she seems to think things like pretrial hearings and trials and plea bargaining are subject to statutes, rules and decisional law.

Her book is considerably less hysterical than Dr. Reiff's and makes some very good points. She once sentenced a person who had blinded a rival suitor to a suspended sentence provided the convicted criminal provide a

certain level of support over the term of the suspended sentence. That decision was upheld and forms the basis of her view that ideally the criminal should provide restitution to the victim. That is, the criminal should get a job and work off the debt to an individual as well as the debt to society. The problem is that Son of Sam is going to have some trouble putting together an attractive résumé. A good idea but not very practical.

One gets the impression from this book that Judge Forer is a conscientious judge who does a good job in a world where the *Mirandas* and the *Escobitos* who will never see their names on Supreme Court briefs have their days in court. The chapter on white collar crime, however, is not good (as a matter of fact it is pretty bad) because Judge Forer goes outside her element and deals in clichés rather than with what she knows.

There are, too, the precious quotations which introduce each chapter and the frequent examples of silly language. E. C. Bentley noted that lawyers, being uncomfortable with ideas, couch simple thoughts in highfalutin' language to impress. Could he have meant a sentence like this? "Is the terrible cycle of anomie and solipsism being repeated?" (p. 9) Who talks like that? Language like that is meant to impress or intimidate or sound very scientific, but not to communicate.

In all, it's not a bad book, but for the person who does not have a special interest in the technical side of our criminal justice system, it is definitely an optional selection.

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U.S. Ratification of the Human Rights Treaties with or without Reservations

Edited for the International Human Rights Law Group by Richard B. Lulich, Charlottesville, Virginia, University Press of Virginia, pp. 81 (with Appendix, pp. 203), \$12.95.

This book is a transcript of a conference held in 1979 on the ratification of four human rights treaties, which President Carter had submitted to the Senate in 1978. The conference focused on the issues arising out of the reservations, declarations and understandings, subject to which the executive branch proposed ratification.

The treaties are: the International Convention on the Elimination of All Forms of Racial Discrimination, which the United States signed more than a decade earlier in 1966; the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, both of which were designed to implement the Universal Declara-

tion of Human Rights of 1948 and were adopted by the UN General Assembly in 1966, but not signed on behalf of the United States until 1977; and the American Convention on Human Rights, which the OAS adopted in 1969, but which the United States did not sign until 1977.

The conference raised the issue of ratification strategy for human rights treaties in the United States. Should they be submitted for Senate action with only those reservations constitutionally required? Or should they be submitted with reservations framed with the various views of the Senate in mind, and to what extent should a mixed strategy be indicated? In particular, it addressed the question of the ratification strategy of the human rights constituency for the above treaties.

The reaction of the American human rights community, as exemplified by all the panelists except the Administration spokesmen, to the submission of these treaties to the Senate was tempered by concern over the sweep of the recommended reservations, particularly the non-self-executing declarations.

The publication of the analysis of these reservations by experts and the ensuing discussion, chaired by Richard Lillich, provided a valuable reference point on the treaties, on their consonance with the U.S. Constitution and laws, on the U.S. legal and policy approach towards human rights treaties and on the legal necessity for, and wisdom of, the proposed reservations. The final part of the book dynamically reflects the clash between the Administration representatives and the other panelists, all proponents of the treaties, on the strategy to ensure positive action by the Senate.

Nigel Rodley presented an overview of the advantages of U.S. participation and disadvantages of non-participation. Louis Henkin's trenchant analysis characterized the reservations to the Civil and Political Rights Covenant as "political, not constitutional." Burns Weston's excellent paper on the Economic, Social and Cultural Covenant was read by Hurst Hannum. Clyde Ferguson commented on the Racial Discrimination Convention from a legal and historical perspective. Thomas Buergenthal spoke eloquently on the American Convention on the Inter-American Court of Human Rights. In response, Administration officials Arthur Rovine and Jack Goldklang presented the rationale for the reservations, many of which had been denounced.

As the position of the current Administration on these treaties unfolds (they are currently under review), these discussions and the suggested alternate approaches will prove useful. Finally, the appendix, for which an index would have been helpful, includes the letters of executive transmittal of the treaties to the Senate and the text of the four conventions.

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Pinner's World Unfair Competition Law Vol. I—An Encyclopedia

Edited by Dawid Heinz, Alphen aan den Rijn, The Netherlands: Sijthoff & Noordhoff International Publishers, B.V., 1978.

Based upon a review of Volume I, the development of a second edition of *Pinner's World Unfair Competition Law* seems to be a project almost as ambitious as was the original publication of this encyclopedia. Since the text was first published in the early 1960s, there has been, according to editor Dawid Heinz, tremendous growth in both the body of international unfair competition law and in the importance of many third world countries in the international marketplace. It is intended, therefore, that the new edition reflect an increased emphasis on licensing, franchising and merchandising, the attempt to create new common market areas (as in South America, for example), the role of multinational corporations in international commerce, and the problems involved in the transfer of technology to developing countries. The new edition also makes greater reference to the laws of Asia, Africa, and Latin America.

The first of four, Volume I of the new edition begins with a brief country-by-country survey of the laws of unfair competition. The section treating the United States, for example, runs six pages in length and is divided into subsections on laws and regulations on unfair competition, trademarks and antitrust; the structure of U.S. law of unfair competition; the enforceability of decisions of foreign courts; international conventions applicable in the United States; commentaries and textbooks which may be of use to the practitioner; and publications containing pertinent court and administrative decisions for those unfamiliar with our system of reporting. Each of the other fifty-odd countries covered are similarly reviewed.

The remainder of Volume I treats the first fifteen of the specific topics covered by the encyclopedia. Arranged in alphabetical order, Volume I treats areas ranging from "Abroad" and "Accessories" through "Boycott" and "Brands of Signs" to "Catchwords" and "Civil Proceedings." The remaining topics will be covered in Volumes II, III and IV.

The text seems well organized and appears to include a fairly thorough overview of each subject. It should prove to be a useful addition to libraries of practitioners engaged in counseling their clients concerning unfair competition laws in countries outside their own.

F. WALTER BISTLINE, JR.
Dallas

Direct Investment and Development in the U.S., A Guide to Incentive Programs, Laws and Restrictions 1980-1981

Raymond J. Waldmann. Transnational Investments, Ltd. Washington, D.C., 1980 Pp. 443.

This book, the fourth edition of a work originally published in 1978, is intended as a reference guide for foreign persons considering a direct investment in the United States. The author, a practicing attorney in Washington, D.C., has revised material appearing in earlier editions and has added new material on recent federal and state legislation and regulations.

The *Guide* is organized around three main parts. The first two describe federal regulation of foreign investment in the United States and incentive programs offered at the federal level which may be of interest to foreign investors. The first part contains sections dealing with specific areas of the law, such as securities law, antitrust and taxation, and other sections relating to specific sectors of the economy, such as banking, energy, agriculture and defense. The sections comprising this part of the book are rather brief and, in some cases, already out of date. For example, the section on taxation is only three pages long and fails to describe or assess the impact of the 1980 legislation taxing gains on foreign investment in U.S. real estate. Similarly, the second part, describing U.S. development programs, is already in need of updating in view of the Reagan Administration's budget cuts affecting government incentives. Thus, while the first two parts of the book purport to cover the principal federal laws governing foreign investment in the U.S., the superficiality and, in some cases, obsolescence of the individual sections detract significantly from the utility of the book to foreign investors and their counsel.

The third part of the book, which contains a state-by-state description of each state's treatment of foreign investors, is the most valuable one. The author states in the preface that each state chapter has been reviewed by state officials. However it is essential that users of the *Guide* obtain current information on recent developments in a particular state following the date of completion of the book (April, 1980).

In this reviewer's opinion, *Foreign Investment in the United States 1980*, published by the District of Columbia Bar and reviewed in the Winter, 1981 issue of this periodical,¹ is the superior work. Both books cover the same ground, except that the D.C. Bar book contains far more detailed studies of federal laws and regulations affecting foreign investment. Only in the state-by-state survey are the two books comparable. The superiority of the D.C. Bar book may be attributed to the fact that its sections dealing

¹INT'L LAW. 177 (1981).

with federal laws were written by separate authors, each an expert in his respective area. The *Guide*, which is essentially a one-man effort, cannot compete with this manpower.

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They Have No Rights: Dred Scott's Struggle for Freedom

Walter Ehrlich: Westport, Greenwood Press, 1979, 266 pp.

No Supreme Court decision has influenced American history so forcefully by inflaming sectional differences as did the Dred Scott decision of 1857. Whether condemning it as an unconstitutional legalization of slavery by a domineering Supreme Court, or acclaiming it as a triumph for slavery, public reaction contributed to the sectional antagonism which became a major cause of the Civil War. Furthermore, the decision became a milestone in the continuing issue of judicial review versus congressional legislative power. Consequently, so much has been published examining the impact of the decision on the role of the judiciary and causes of the Civil War that one might conclude another study can only be redundant. However, Walter Ehrlich has set forth some valuable observations and new facts which justify our reading his study of the Dred Scott case.

Mr. Ehrlich's stated purpose is to give a detailed history of the litigation taking into account the motives of the participants and the significant issues which shaped the case. This background is necessary for a comprehensive understanding of the development and significance of the decision.

In summarizing the book, there are four parts. The first part, having three chapters, concerns Dred Scott's early life, ownership and travels into free states. Part Two, composed of five chapters, details the first court action and appeal in Missouri state court in 1846, 1848, and in the Missouri Supreme Court in 1851. Part Three, six chapters, carries the account to the federal courts in *Scott v. Sanford* heard in the U.S. Circuit Court for the District of Missouri, 1854, and finally in the United States Supreme Court in 1857. In the concluding Part Four, four chapters, Mr. Ehrlich discusses the controversies surrounding Chief Justice Taney's opinion, the concurring and dissenting opinions and establishes his most important conclusions, especially with regard to the *obiter dictum* controversy explaining why the decision was not extrajudicial in its voiding of the Missouri Compromise.

Throughout the study, Mr. Ehrlich reveals the salient points in the arguments of attorneys and reasonings of judges, especially when the case was before the Supreme Court. This is a strong point of the book which aids

immensely in one's understanding of the development and issues of the case. Also, the narrative is enhanced by attention to the personal motives of the lawyers, judges and laymen who influenced the case with their own prejudices by injecting sectional issues which made the case so explosive.

A major contribution of the book is conclusive information taken from documents of the initial court actions discovered by the author after a five-year search. These documents prove that the true motive behind the case's inception was not to produce a political test case as asserted by many writers. Another conclusion developed by the author is that it was the inaccurate and biased reporting of Chief Justice Taney's opinion which caused the heated public reaction which was based on the various versions laced with sectional prejudices instead of the oral or published opinion. For instance, it was reported that the Chief Justice said of blacks, "They have no rights," which was incorrect. This alleged statement, and other inaccuracies, greatly intensified sectional enmity. Therefore, the author contends, we must study, not just the official opinion, but the versions the people read in their newspapers and the bias with which the decision was reported to understand why the decision caused such popularity.

The bibliography is extensive and the text is well footnoted. The writing style is not exceptionally eloquent but is concise and factual in its approach. In the final analysis, this book should enhance the background knowledge of any well-read student of the case and stimulate new thought. On the other hand, it will serve as an excellent foundation for the beginner or the casual reader who simply wants a good summary of this paramount case.

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Droit International Privé

By Henri Batiffol and Paul Lagarde. 7th Edition. Volume 1. Paris: Librairie Generale de Droit et de Jurisprudence, 1981. Pp. 448. About FF140.

The first volume of the seventh edition of *Droit international privé* has just appeared. A classic work, prepared by two renowned scholars, Volume 1 gives us an introduction to the area and then treats in detail the questions of nationality and certain issues of conflict of laws in French legal thinking.

These are related fields in French law and the authors do not apologize for treating questions of nationality along with private international law. France has adopted the principle that the law of nationality governs a person's status and capacity rather than the Anglo-American conception that the law of domicile governs such matters. Thus issues of nationality play a

much greater role for the French in issues of private international law than they do for Americans.

While the volume is well written and contains a detailed table of contents, the lack of an index does make quick reference difficult. Hopefully this will be corrected in the second volume when it appears. There is no bibliography, but the footnotes contain extensive citations and one can easily use this book as a first step toward other sources.

The French law concerning nationality, the Code of French Nationality, was almost completely rewritten by the law of 9 January 1973. This new law brought the law on nationality into harmony with the modern principles of equality of spouses and the equality of legitimate and illegitimate children. France recognizes nationality based upon the *jus soli* and *jus sanguinis* principles, but whereas the United States places more emphasis upon the former, the French place more emphasis upon the latter. Batiffol and Lagarde explain just how this works. The French in their pride of being French place more emphasis upon links with France in education and training rather than the simple chance of being born on French soil. Acquisition of French nationality by naturalization and the circumstances under which French nationality may be lost are set forth and discussed. Another important issue discussed is the condition of foreigners in France. One is reminded that in French law, the law of one's nationality governs one's status and capacity. Thus generally, an American domiciled in Paris will still be subject to American law for questions of capacity and status. Many problems can result since there is no "American" law on these issues and links with any particular State may be difficult to establish. The issue of the nationality of corporations is also discussed.

The second half of the volume is devoted to an introduction to the conflicts of laws. Having established who is French and who is not, one now may see the problems that can result for that American domiciled in Paris, or a Frenchman domiciled in New York. This volume presents the general theory of conflicts but most of the substance is still to be found in Volume 2 of the sixth edition. One of the problems explored in the present volume is the application of foreign law.

This, the seventh edition, continues to provide a clear and complete discussion of French private international law. This Volume 1 brings up to date the discussion of French nationality law and one can only look forward to the appearance of Volume 2.

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