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Articles Noted

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ANTITRUST

Fugate, *Antitrust Aspects of Transatlantic Investment*, 34 LAW & CONTEMP. PROB. 34 (1969).— After briefly dealing with the beneficial effects of foreign investment in the United States, the author shows that the antitrust laws of this country are viewed as unknown complications and potential barriers by foreign investors. The article then turns to an analysis of the impact of these laws on foreign investment in the United States and on domestic companies which invest in foreign countries. The conciliatory approach of the Justice Department, which consults with the State Department before its acts against a foreign concern, is indicated as one of the examples of moderation in this area. The psychological impact of *United States v. Monsanto Co.*, 1967 Trade Cas. para. 72,001 (D.C. Pa. 1967) (consent decree), and *United States v. Atlantic Richfield Co.*, 297 F. Supp. 1061 (S.D.N.Y. 1969) is briefly discussed. The author concludes that these cases and the overall governmental policy show that foreign investment is welcomed in this country. Consideration is then given to the extraterritorial application of United States antitrust laws and the problems of foreign investment by domestic companies. The cooperation between the countries involved in such problems is set out as an example of the rational approach in this area.

Mr. Fugate gives only a quick overview which is, nevertheless, beneficial in that it details the international implications of United States antitrust laws and points the way to what the author feels is a rational solution. (RMR)

Timberg, *The Impact of Antitrust Laws on Multinational Licensing and Franchising Agreements*, 13 ANTITRUST BULL. 39 (1968).— This article relates international antitrust legislation to the problem of licensing and franchising patent rights and technical "know-how" to foreign businesses, and the extent to which restrictions may be imposed. The author begins by comparing the antitrust legislation of other nations with the Sherman and Clayton Acts. A good outline of the laws of other nations, classified by the type of legislation involved, gives an overview approach necessary for a coherent understanding of how a foreign patent licensing attempt may fare in this rapidly developing area of the law. The author discusses several recent decisions, and hypothesizes how the courts may further limit the "rights of scientific and industrial property holders." The article is valuable as an outline, and its footnotes are replete with citations to other authorities. (JRP)

ATOMIC ENERGY

Gorove, *Distinguishing "Peaceful" from "Military" Uses of Atomic Energy: Some Facts and Considerations*, 30 OHIO ST. L. REV. 495 (1969).— Mr. Gorove states that since under existing world conditions general nuclear disarmament has been unattainable, it has become Western policy to set up international controls over civilian atomic energy use, attempting in this way to prevent nuclear materials destined for peaceful purposes from being converted into military uses. Through such organizations as the International Atomic Energy Agency (IAEA), the problem has developed of defining "peaceful" and "military" uses.

The author discusses the many criteria that have been used to distinguish between permissible and non-permissible peaceful uses of nuclear energy. While some experts would have a specifically stated definition of the prohibited military use, others favored a less stringent definition policy which would allow greater discretion to the Board of Governors in determining if the use is military and therefore non-permissible.

The author feels that whichever means is adopted to determine violations of the agency agreements, such definitions are relative to technological advancements and thus should frequently be reevaluated. (WLF)

COMMON MARKET — EXCLUSIVE DEALING

Cohen, *The Application of Article 85(3) of The Treaty Establishing The European Economic Community To Exclusive Dealing Agreements*, 54 CORNELL L. REV. 379 (1969).— In this excellent article, the author analyzes the applicability of Art. 85(3) of the E.E.C. Treaty to the two types of exclusive dealing agreements: Exclusive sales agreements and exclusive purchase agreements. The first part of the article considers the economic effect of exclusive dealing agreements on competition. With the aid of examples, Mr. Cohen demonstrates how both types of agreements may either promote or hinder competition, depending upon the economic setting. The second part considers the policy and purpose of Art. 85 of the E.E.C. Treaty, and its implementation by the community institutions. The author stresses that the purpose of the Treaty is the creation of one common market from six national economies, and that its provisions should be interpreted consistently with this goal. In the last part of the article, the author examines exclusive dealing agreements in the light of Art. 85. Exclusive dealing agreements can have the effect of furthering economic integration of the six economies, if they induce dealers and buyers to expand into community markets. Exclusive sales agreements do not automatically fall within the prohibitions of Art. 85(1), and exclusive purchase agreements will probably be judged according to their economic effects in a case by case analysis. The Court of Justice of the E.E.C. has stated that Art. 85(3) must be narrowly interpreted.

The article makes a careful survey of the major cases and statements of the Commission, in addition to an examination of the relevant treaty provisions and regulations.

This article will be of particular interest to American businesses abroad as an aid to research into the antitrust provisions of the E.E.C. Treaty. (CDD)

COMPARATIVE LAW — CLOSE CORPORATIONS

Haskell, *The American Close Corporation and Its West German Counterpart: A Comparative Study*, 21 ALA. L. REV. 287 (1969).— The author examines the distinction between a partnership, a corporation as an independent legal entity, and a close corporation whose stock is owned by a small number of persons. The outline of this article is developed in terms of the general format of these entities, while the policies governing them are discussed with suggestions for increasing *flexibility*.

The author presents a discussion of the German *Gesellschaft mit beschrankter Haftung* (GmbH) and the need for an American counterpart, since the German form contains so few mandatory provisions. This permits

German businessmen to incorporate largely on their own terms with only limited liability.

Looking to the future, the author expresses hope that American states will soon adopt close corporation statutes. (CAC)

COURTS — GERMANY

Rupp, *The Federal Constitutional Court in Germany: Scope of its Jurisdiction and Procedure*, 44 NOTRE DAME LAWYER 548 (1969).— In this rather brief article, the author presents an introduction to the German Federal Constitutional Court, the highest tribunal of that country. The author's approach to the jurisdictional and procedural aspects of the Court is through a discussion of two important cases recently decided by the Court and also by comparing the German Court to the United States Supreme Court, thus allowing an American reader to relate more easily to the impact the German Court has on that nation.

The text includes a discussion of the manner in which judges are selected, the extensive powers granted to the Court by Germany's Constitution, especially in the area of justicibility, and the yet to be developed protection given to a defendant in criminal proceedings.

This article should provide the reader with sufficient knowledge of the German Federal Constitutional Court to serve as a basis for further study. (JJA)

CRIMINAL LAW — CANADA

Mewett, *Criminal Revision in Canada*, 7 ALBERTA L. REV. 272 (1969).— In an attempt to popularize and draw support for a Canadian criminal law reform committee, the author notes the importance such a knowledgeable centralized resource could have on future legislation. Armed with evidence of the present program of haphazard admittance of reform bills and the success of reform organizations at the provincial level, he makes a persuasive case for the creation of such a committee. Mr. Mewett makes it clear that since reform legislation is adopted only by Parliament, this committee of criminal law experts would serve in an advisory capacity to the appropriate governmental officials.

Criminal law reform has created a longstanding controversy; this article gives one alternative available to remedy the supposed inequities of the present system. The article is of particular significance to individuals researching both the relationship of Canadian criminal law to legislative action and the lack of an existing criminal procedure. (TET)

EXPROPRIATION

Harris, *The Protection of Companies in International Law in the Light of the Nottebohm Case*, 18 INT'L & COMP. L. Q. 275 (1969). —Recent incidents of expropriation of foreign companies by several of the developing nations bring to mind the role which a parent nation ought to play in the protection of the economic and corporate interests of its citizens. Mr. Harris begins with the premise that there is a parallel relationship between the individual citizen involved in the *Nottebohm* decision, and the international corporation, the latter being an individual in the sense of a juristic person. Since in the *Nottebohm* case the International Court of Justice repudiated the right of Liechtenstein to protect an individual who had no

"genuine connection" with the State seeking to protect him, the author examines the effect of such a ruling on what most States have considered their "untrammelled power" to protect their own companies. The article presents a careful survey of the practices of a number of countries when they are called upon to extend diplomatic protection to national companies, and in particular contrasts the practices of the United States and those of the United Kingdom. While concluding that the *Nottebohm* decision has had little direct effect upon the ability of a State to protect companies it considers to be nationals, the author nevertheless offers a number of suggestions as to how the law dealing with this problem might be clarified. Because of the multiplicity of tests which are used to determine whether a State is warranted in extending protection to a particular company, Mr. Harris concludes that under the name of the "genuine connection" requirement of *Nottebohm*, the tests and practices concerning the protection of companies ought to be more concisely defined. (WDB)

FOREIGN INVESTMENT

Mazaroff, *An Evaluation of the Sabbatino Amendment as a Legislative Guardian of American Private Investment Abroad*, 37 GEO. WASH. L. REV. 788 (1969).— The author evaluates the effectiveness of the Sabbatino Amendment as a mechanism for the recovery of property that has been expropriated without just compensation and then merchandized in American markets. The legislation is considered in light of the events which precipitated its passage, the judicial application of the Amendment to date, and its possible future application, the conclusion being that it is not an effective deterrent to the expropriation of American private foreign investment. Mr. Mazaroff adds, however, that it may deter the use of the United States as a market for expropriated goods. One purpose of the Amendment is thereby defeated, since the American businessman cannot attach the goods and cannot institute proceedings in an American court unless the goods are merchandized in an American market.

The author aptly discusses the impact of four cases that have arisen under the Amendment, pointing out that two have been unsuccessful and two have allowed recovery. The two successful cases, however, are distinguished on the grounds that they involved rather unique situations which are unlikely to reoccur. Thus while the Sabbatino Amendment has not been an effective shield for American foreign investment, it has not done any harm. The article indicates that the American foreign investor cannot be protected from the tide of expropriation by legislation creating a judicial redress. (JPR)

FORENSIC MEDICINE

Note, *Battered Babies*, 3 BRIT. MED. J. 5672 (1969).— The authors comment upon the tendency among physicians, when presented with a badly bruised infant patient, to ignore the possibility that the injuries may have been inflicted by the parents. The "battered baby" syndrome is shown to be a relatively recent phenomenon in England as well as in the United States. Physicians in both countries are prone to this diagnostic error, which often has serious consequences for the child, or a subsequent child of the same parents. It is pointed out that in a family where the first born was battered, there is a 13-1 risk of a reoccurance among subsequent children. The physician's responsibility to the public welfare is analyzed in the light of these statistics.

Physicians were notified that families in which the "battered baby" syndrome occurs often have much in common in terms of age, socio-economic background, and previous records of criminal behavior. They were advised in cases where child-beating is suspected, to notify the local child welfare authority instead of the police. In this way, the authors suggest, the physician can fulfill his responsibility to treat his patient, perform his essential role in preventive action, and not become simply an agent of the law. The article implies that while a doctor does have an obligation as a citizen to society, this is superseded by his duty to the patient. (JTF)

Snoke, *The Unsolved Problem of the Career Professional in the Establishment of National Health Policy*, 59 AM. J. PUB. HEALTH 1575 (1969).— The problem of establishing a uniform national health policy is analyzed in this article from an activist viewpoint. The author briefly describes the present situation in which the health planning role of local, state, and federal governments is confused. To focus more sharply upon the topic, the author divides the current problem into: (1) the need to delineate the role of the Department of Health, Education and Welfare (HEW) and the Public Health Service (PHS); and (2) the need for career professionals in health administration to have uniform policy objectives.

Through careful chronological description and comparison, the author supports the premise that the many reorganizations which HEW and PHS have undergone have been highly ineffective. In fact, the reorganizations have thrown a haze over the goal of uniform health planning and have eroded the position of the commissioned professionals. The author suggests that the greatest administrative problem is the constantly shifting leadership which often comes from political appointment. With a politically controlled hierarchy, lack of coordination in health programs and fluctuation in the numbers of trained personnel naturally follow.

If good long-range planning and swift implementation of programs to meet immediate problems is to be achieved, administrators must be able to understand the intricacies of decision making and be able to function with nonpartisan evaluation and judgment, even though the results may be in disagreement with the desires of many pressure groups. These criteria would all seem to point to the need for developing career professionals in health administration. Despite the influence HEW has had on national and local health matters, the federal government has been derelict in its support of professional health administrators and has made them dependent upon management by changing political appointees. The author makes two fundamental recommendations. First, a long-range program through a partnership of government and private sectors must be started to develop, recruit, and retain adequate numbers of career health administrators. Secondly, there must be a "resolution of the current uncertainty regarding the organization and leadership in HEW . . . and the future of PHS, its Commissioned Corps, and its Surgeon General before they disappear without effective replacement." The Secretary of HEW and his new Assistant Secretary for Health and Scientific Affairs are in the best position to take immediate constructive steps and end the present confusion. (JEM)

FORENSIC MEDICINE — COMPUTERIZED HEALTH RECORDS

Greenes et al, *Recording, Retrieval and Review of Medical Data by Physician-Computer Interaction*, 282 NEW ENG. J. MED. 307 (1970).— The authors first discuss the need for a computer-physician oriented system of medi-

cal records and then briefly explain the various approaches taken by other researchers and the limitations of such approaches. The major portion of the article deals with a description of their system and how it is used. The objective of the system is to allow maximum physician-computer interaction. This is done by developing a system which is not only easy to use, but also has wide versatility of use plus a research and teaching value.

The authors tested their system at the Hypertension Clinic of the Massachusetts General Hospital because of the clinic's limited size and because its patients are seen on a long-term basis. The system consists of a cathode-ray tube terminal in an examining room which is connected to a time sharing computer. A physician selects from the different categories, and then he can move to various levels of increasing detail. Provision is also made for dictation to supplement the structured vocabulary.

After four months of use by three physicians and a clinical fellow, the authors found that the system worked well. They noted that after five to ten experiences with the system, physicians were proficient in its use. Also, the reports made by using the computer were more complete and took less time than similar handwritten ones. Summaries generated by the computer proved to be very useful when conferring with patients. The system also proved its value as a research and general survey instrument.

The authors also briefly discussed the legal implications of such a system in relation to the security and privacy of the stored information. The authors stated that all the results of this limited test indicated that the system can be very valuable to the physician. The major problem is balancing the benefits against the economic considerations of an automated medical-record system. Once this is accomplished, they contend, such systems should become widely used. (LWW)

Curran, Stearns & Kaplan, *Privacy, Confidentiality and Other Legal Consideration in the Establishment of a Centralized Health-Data System*, 281 N. ENG. J. MED. 241 (1969).— This study is concerned with the establishment of a "comprehensive, computerized health-data system covering a large population area" and with the legal implications that are inherent in such a system. The authors identify the protection of personal privacy and confidentiality as their most fundamental concerns. Specific references are made to the exemption of confidential information from public records which is provided for under certain state reporting laws. Once this information has been reported, however, degrees of confidentiality are distinguished by statute which in some instances make "very sensitive information a matter of public record." The authors discuss the value of this statutory system of differentiation and "suspect that the legal draftsman merely selected one or another approach in an ad hoc way without regard to any overall scheme."

With respect to the subpoena of medical records, similar Massachusetts and Minnesota statutes are cited which were designed to protect research projects by exempting from subpoena specific confidential records. While it is indicated that contributing agencies would be granted protection from law suits, the "statute does not require the research group itself to keep the information confidential."

An examination of federal legislation revealed that there are no federal laws or administrative rules that would encumber the contribution of health and medical data by nonfederal agencies to a nonfederal health data system. The authors also indicate that the amendments initiated under the Public

Information Act of 1966 would allow the compilation of unidentified statistical information from personal records.

In general the authors seek to remedy the ad hoc approach of state governments and the narrow scope of the federal law by initiating a more closely coordinated and comprehensive plan. They recognize that the trust of the public and of the contributing agencies is an essential factor to the success of a health data system. Therefore, it is suggested that contributing agencies be allowed to play an active role in the formulation of its operating policies. Furthermore, they recommend that a carefully defined code of ethics and rules should be instituted for the purpose of protecting the privacy of all records within the system. Presumably any violation of such a code would result in dismissal or would bar future use of the system depending upon the capacity of the offender. The authors advise that a civil remedy for damages as well as a criminal penalty for violation be included in any legislation relative to a legal right to privacy.

In addition to internal regulations and legislative considerations, a self questioning process would be facilitated by establishing a special committee on privacy. This committee, coupled with periodic governmental inspection, would also be designed to protect confidential information.

The basic legal problem results from the uncertain status of the right to privacy as a legal principle. By adhering to a strict code of ethics and to extensive internal and external controls, the authors indicate that a centralized health data system could crystallize the right to privacy. (HJH)

FORENSIC MEDICINE — GENETICS

Abdullah, Jarvik, Johnson, & Lanzkron, *Extra Y Chromosome and Its Psychiatric Implications*, 21 ARCHIVES OF GEN. PSYCHIATRY 497 (1969).— Recent research in associating numerical chromosomal anomalies with behavioral deviations other than mental deficiency have focused attention on the *extra Y syndrome*. The authors state that the early reports of XYY karyotype males indicated no consistent mental or physical stigmata other than a high incidence of gonadal abnormalities. Recent studies indicate that the XYY karyotype occurs more often among agressive, impulsive, and criminally inclined individuals who tend to be tall and of low intelligence. However, these characteristics are not determinative as the condition has been found in persons of normal or superior intelligence, or short height. Additional clinical case studies indicate that aggressive, antisocial, or criminal behavior do not appear to be necessary consequences of the extra Y chromosome. Elevated levels of testosterone which has given rise to the theory that the extra Y chromosome acts as a mediator in the production of testosterone and thereby primes the developing central nervous system to greater aggressive tendencies have been found in some XYY individuals but not in all.

The authors' investigation was limited to males over six feet tall selected for aggressive behavior from prison or mental hospital populations. Of the 49 subjects selected, only two exhibited chromosomal abnormalities. Other investigators have reported results of from zero to 25% chromosomal abnormalities. A clincial history of a 26 year old male exhibiting all the general indicators associated with the XYY syndrome — tall, mentally dull, antisocial, aggressive — is presented for illustration.

The authors suggest that the schizophrenic symptoms associated with the XYY syndrome may be incidental to the chromosomal abnormality, and

that research into epileptic seizures in XYY patients may explain their often observed unpredictable assaultive behavior. (JCS)

Fox, *XYZ Chromosomes and Crime*, 2 AUSTL. & N. Z. J. OF CRIMINOLOGY 5 (1969).— In fifteen pages, the author provides the professional and lay reader with a full and very well documented study of the controversial and often misunderstood subject of the XYY chromosome anomaly.

The relationship between genetics and criminality is put into historical perspective by a brief review of the conflict between the biological and environmental interpretations of criminal behavior, and it is noted that the furor over the XYY anomaly was born in a professional realm still largely anti-Lombrosian, and yet avidly received by a lay public which generally believes that heredity does play a role in the determination of criminal behavior. This is followed by a clear and quite adequate explanation of the mechanics of cell division and sex determination, and the genetic "mistakes" which cause anomalies like the one in question. The author then lists all the criminal cases in which the XYY defense has been used, through 1969, and the wide geographic distribution of these cases demonstrates the international interest in this topic.

The major part of the article is devoted to a detailed consideration of all the reported research on the XYY from its first observance in 1961 to the present. However, the inconclusive nature of the results of this research leads the author to conclude that "the information gleaned from research so far undertaken is ambiguous, contradictory, and statistically inadequate." The only thing that is known is that much more needs to be known. The attempts to determine uniform characteristics of all XYY males have produced such a variety of results that the only rational generalization is that speculations on any aspect of the XYY problem are unwise. The author points out that the only general rule appears to be that there is no significant difference between the physical characteristics of the XYY males as a class and all other males, except for the unusual height of the "supermale." However, since much of the research has been conducted with groups of XYY's prescreened for height or with groups composed only of convicted felons, the applicability of any findings to the population as a whole has been impossible.

The author argues for broader studies, chromosome checks on all newborns, and a thorough examination of police records to determine and keep track of the XYY element within a given population.

Finally, the XYY problem is considered within the context of the criminal codes of several Australian jurisdictions. The author concludes by suggesting that the most difficult task facing the courts in this area may not be the determination of guilt, but rather the sentencing and disposition of convicted felons with this anomaly, since it appears that the question of rehabilitation has become moot. (LJD)

FORENSIC MEDICINE — TOXICOLOGY

Barltrop, *Lead Poisoning*, 2 BRIT. J. HOSP. MED. 1567 (1969).— The author examines the history of lead poisoning and then points out that the present day use of lead is greatly increased compared to the past. The sources of lead are widespread and commonplace: tetraethyl lead in gasoline, paint pigment, some types of coal, and even some insecticides. The result is that the most adults have an intake of about 0.3 mg per day in

lead that is either eaten or inhaled. He also points out that crops growing in an area with a high amount of airborne lead will assimilate the lead and are likely to be contaminated.

The author has published nine articles on lead poisoning over the last five years in an apparently vain attempt to point out to his profession and to the general public the growing problem of world contamination and the need for positive action. The problem is complicated by the fact that lead poisoning hazards are not well recognized and preventive measures are still largely ineffective in the control of lead. He further suggests that the medical profession has not done its best in diagnosing cases of poisoning, thereby creating the appearance of a well controlled situation, when in fact the contrary is true. (DVI)

INTERNATIONAL COPYRIGHT

Sacks, *Crisis in International Copyright* (pts. 1 & 2), 1969 J. BUS. L. 26, 128.— Mr. Sacks discusses the role of the Berne Copyright Convention as a leading example of an attempt to provide protection for property in foreign countries through international law. After stressing that this convention is in fact an outgrowth of property law, the author illustrates several threats to the viability of the Convention posed by the hostility of many underdeveloped nations to a treaty which makes it more expensive for them to import vitally needed information.

The crisis has arisen, Mr. Sacks feels, because of a fundamental clash of attitudes between developed and developing nations as to the sanctity of copyright. As long ago as 1963 an African study meeting on copyright met in Brazzaville and proposed the Draft Model Copyright Law which would severely weaken the protections offered authors by the Berne Convention. An East Asian seminar on copyright, held in New Delhi in 1967, likewise proposed measures designed to enable information-importing countries to secure literary and scientific works with minimal expenditures of their precious foreign reserves.

As a result of this agitation, a Protocol was adopted in Stockholm in 1967, representing a compromise modification of the Berne Convention. The developed nations, with the exception of England, felt it imperative to make some concessions lest the underdeveloped countries abandon the Berne treaty altogether.

Mr. Sacks concludes that it is an open question whether the developing states will be satisfied with the present arrangement. If they are not, he says, the rule of law in the international community will suffer accordingly. (MFT)

INTERNATIONAL ORGANIZATION

Wright, *The Foundations For a Universal International System*, 44 NOTRE DAME LAWYER 4 (1969).— Ideological conflicts and demands for rapid economic progress are forces which continue to hamper internationalism. Although the post-World War II boom in communications, transportation, and nuclear weapons has given most nations an international consciousness, it has not settled international instability. In the context of nationalism and power politics, the author addresses the problem of how an international system can be developed within a reasonable time to ameliorate the threat to world peace and yet to be acceptable to all governments and peoples. The au-

thor discloses that the foundations for a universal international system are in existence already. If the masses were educated as to the inadequacy of the existing international situation, a consensus that international systems could be effective and attainable might develop. The effect of this process can be felt already in the development of common culture, aspirations, and loyalty in a few existing political unions, the best example being the United Nations. After examining the merits and disadvantages of several international systems, the author proposes a universal system established through international law and organization. The author describes how international law might develop and a viable system gradually be achieved in a peaceful environment. The critics of international law are answered clearly and the main objectives of international law are set forth with a view to end idle speculation. As to forming an international organization based on the universal values of peace, justice to all, social progress, and economic progress, the author points out that the United Nations already embraces these as its *raison d'etre*. He suggests that a renewed effort at fostering the image of a truly international community needs to be undertaken. To further these ends a reaffirmation of the values of the United Nations along with a desire to improve and strengthen its structure is needed. But the first step forward is a large one. Before people will be able to understand and accept international law, peace must be established and protected on a world wide basis. (JEM)

LEGAL THEORY — CHINA

Perlov, *The Departure From Democratic Principles Of Justice In The Chinese People's Republic*, 1 CHINESE LAW AND GOV'T 23 (1968).— In the Fall 1968 issue, the editors departed from their usual policy of offering translations of articles by Chinese Communist writers in order to present commentaries on recent political and legal developments in China by three Soviet scholars. In this article, I. D. Perlov, Chief of a section at the All-Union Institute for the Study of the Causes of Crime and for Crime Prevention, describes the Mao Tse-Tung cultural revolution as trampling the principles of socialist legality and justice, thereby harming the Chinese people's faith in socialist ideas and justice.

The author first describes the lawlessness and arbitrary action of the "Cultural Revolution" in China. Maoist theoreticians began the campaign against socialist justice by declaring legal principles such as the independence of the courts, the accused's right to defense, the assessment of evidence according to inner convictions of the judge, and the presumption of innocence of the accused, as having bourgeoisie origins inappropriate to Chinese Civil Procedure. The author describes the historical development of these principles and admits that they were originally propounded by the bourgeoisie revolution. However, he defends their utility in Socialist Justice by stating that although they were distorted and debased by the bourgeoisie once they came to power, Communists can and should incorporate these principles into their legal systems in order to restore their original vitality. (MSS)

LEGAL AID — SCOTLAND

Young, *Legal Aid in Scotland*, 21 ALA. L. REV. 191 (1969).— Mr. Young presents a description of the court structure in Scotland as a background for his discussion of legal aid in that country. His complete outline of the

criminal and civil courts is then used to present the history of legal aid in each of these systems. Throughout both of these sections he explains the procedures thoroughly, contrasts them, and justifies the variations between them.

The present legal aid systems, as presented by the author, are the logical extensions of their earlier counterparts, complicated by the financial difficulties of the United Kingdom. The present civil system began in 1949, while the criminal aid program was delayed 15 years. The two systems, though similar, still show the vestiges of their lineage. Today, there exists along with these two, a procedure for legal advice cursorily described by the author because of its relatively infrequent use. All of these systems, Mr. Young optimistically asserts, are popular with the bar and the general public. (JLS)

PROPERTY LAW — USSR

Brown, *Soviet Law and Procedure Concerning Property and Inheritance*, 3 INT'L LAWYER 787 (1969).— The brevity of this article in no way detracts from the author's purpose of clarifying misunderstandings and sustaining interest in Soviet law of property and inheritance. Information culled from testimony in a test case on the issue of whether a Soviet citizen would have the " 'use, benefit, and control' of an inheritance from a Pennsylvania decedent" explains the law and presents an opportunity for exploration. General law concerning the subject is derived from a constitutional framework which contains individual rights as well as governmental controls. Tempered and limited by Soviet economic and political policies, the property rights of the Soviet citizen are portrayed as containing valid constitutional support and perhaps the basis for incremental growth.

Although the constitutional conclusions arising from Mr. Brown's writing are by themselves enlightening, he also advances the objective of breaking the ideologic barriers of the staunchest American conservative. In that regard the Soviet Union, like the United States, has procedures which allow inheritance of its citizens from foreign estates. Furthermore, the legal apparatus includes a means through which the citizen may gain assistance in collection of his inheritance in the United States as well as in the Soviet Union. In addition, the author points out that the government charges no inheritance tax on moneys received from foreign estates, and in fact has established stores which sell merchandise for foreign currency, which ultimately results in a saving not otherwise available to the citizen. For those who wish to learn a new concept of inheritance of citizens from foreign states as well as to expand upon existing concepts, the information capsuled should be of fundamental interest. (RDM)

SPACE LAW

Mazaroff, *Exonerations from Liability for Damage Caused by Space Activities*, 54 CORNELL L. REV. 71 (1968).— At present the danger to third parties from space activities is slight, but by 1975 it is predicted that there will be over 50,000 satellites in orbit. The important international problem of what liabilities a nation acquires with regard to damage caused by its space activities is currently being considered by the Legal Subcommittee of the United Nations Committee on the Peaceful Uses of Outer Space. Historically, when new ultrahazardous activities (such as aviation) were first introduced, strict liability was imposed for any resulting damage. Only

such things as acts of God, gross negligence of the injured party or unpredictable acts of a third party were considered to exonerate a tort feasor from strict liability.

The United States, Belgium, and Hungary have each introduced draft agreements which are substantially the same except that the Hungarians would bar all exoneration if illegal space activities are involved. This additional restriction on exoneration is not viewed by the experts as an insurmountable obstacle to agreement. All these proposals support the principle that only when willful or reckless misconduct is attributable to the claimant may the nation charged be exonerated from liability. Such strict liability has two objectives. The first is to compensate innocent third party victims of chance space accidents. The second objective is to set up a simple, expeditious and equitable system by which the third party may settle his international claim. In closing the author states, ". . . when the United States and the Soviet Union find it in their long-range interest to consummate an agreement on space vehicle liability, legal technicalities and current differences of opinion with respect to exoneration will not stand in their way." (LWN)