

NOTES AND COMMENTS

CORRESPONDENCE

TO THE CO-EDITORS IN CHIEF:

Carlos Manuel Vázquez's excellent article *The Four Doctrines of Self-Executing Treaties* (89 AJIL 695 (1995)) to my mind added structure to a categorical debate which need not take place. The "Supremacy Clause" in Article 6 of the U.S. Constitution nowhere alters the requisite "advice and consent" to ratification of a treaty signed by a U.S. President. It is the failure to abide by this fundamental cornerstone of U.S. foreign relations law which leads to confusion in the self-executing/non-self-executing debate, for it is the Senate in its sovereign role separate from the House of Representatives which is the final determiner whether bicameral simple majority legislation is necessary before or as a condition of its two-thirds consent.

This confusion has resulted not only because of U.S. courts' interference in constitutional wisdom but also because of the Senate's laggard performance in its duties under the Constitution in ratifying or rather consenting to the ratification by the President of treaties. The language of the treaties themselves, whether precatory or obligatory, under the U.S. Constitution, is not controlling; rather, it is two-thirds of the Senate's *consent* to ratification which is determinative. Were the whole world dualist rather than monist, as many states are, and were this fundamental distinction of international law not taken for granted, the bifurcated ratification process would be better understood by both U.S. courts and those of us trying to make sense of their pronouncements.

Additionally, the end run around the U.S. treaty process accomplished by modern-day multitudinous international agreements is avoided in this important article. The U.S. State Department has accomplished actual non-self-executing treaty making, as well as unratified "treaty making," by simply changing a label to "agreement." This is a more dangerous usurpation of the constitutional good sense of a two-thirds majority vote of consent by the more stable Senate institution. One hopes that this concealed treaty issue will be analyzed more thoroughly in Mr. Vázquez's forthcoming work, *Treaties as the Law of the Land*.

MARY DOMINICK

THE FRANCIS DEÁK PRIZE

The Board of Editors takes great pleasure in announcing the award of the annual Francis Deák Prize for an outstanding article by a younger author to Professor Carlos Manuel Vázquez, of the Georgetown University Law Center, for *The Four Doctrines of Self-Executing Treaties*. The prize-winning article appeared in the October 1995 issue of the *Journal* at page 695.

The prize was established in 1973 by Philip Cohen in memory of Francis Deák, who had just edited the first volume of *American International Law Cases, 1783–1968*, at the time of his death. In extending its congratulations to Professor Vázquez, the Board of Editors also wishes to acknowledge with gratitude both the continuing interest in the scholarship of international law and the generosity of Mr. Cohen, President of the Institute for Continuing Education in Law and Librarianship.