

*The International*  
*and*  
*Comparative Law Quarterly*

**VOLUME 24**

**1975**

**William S. Hein & Co., Inc.**  
**Buffalo, New York**  
**2003**

© British Institute of International and Comparative Law 1975.  
Published by Oxford University Press.  
All rights reserved

This book has been digitally archived,  
to maintain the quality of the original work  
for future generations of legal researchers,  
by *William S. Hein & Co., Inc.*



This volume is printed on acid-free paper by  
William S. Hein & Co., Inc.

# The International and Comparative Law Quarterly

## BOARD OF EDITORS

*General Editor*

K. R. SIMMONDS

*Assistant General Editor*

TOM HARPER

P. B. CARTER

A. K. R. KIRALFY

NORMAN S. MARSH, Q.C.

*Contributions to the International and Comparative Law Quarterly express the views of their authors and not necessarily the views of the Editorial Board or of the British Institute of International and Comparative Law.*

# **The British Institute of International and Comparative Law**

## **COUNCIL OF MANAGEMENT**

*Chairman:* THE RT. HON. LORD DENNING, M.R.

*Vice-Chairman:* M. E. Bathurst, C.M.G., C.B.E., Q.C., D.C.L., LL.D.

Professor Sir Norman Anderson, O.B.E., Q.C., D.D., LL.D., F.B.A.	* Professor R. St. J. Macdonald, Q.C.
N. Fox Bassett	Sir James McPetrie, K.C.M.G., O.B.E.
The Rt. Hon. Lord Cross of Chelsea	F. A. Mann, LL.D., Dr.Jur., F.B.A.
L. A. Ellwood	Norman S. Marsh, Q.C.
Sir Vincent Evans, K.C.M.G., M.B.E., Q.C.	Andrew Martin, Q.C.
Sir Gerald Fitzmaurice, G.C.M.G., Q.C.	The Rt. Hon. Lord Justice Scarman, O.B.E.
Professor R. H. Graveson, C.B.E., Q.C., LL.D.	The Rt. Hon. Lord Shawcross, G.B.E., Q.C.
Professor C. J. Hamson	Professor T. B. Smith, Q.C., D.C.L., LL.D., F.B.A.
Master I. H. Jacob	Professor Sir Francis Vallat, K.C.M.G., Q.C.
Professor R. Y. Jennings, Q.C.	Sir Humphrey Waldock, C.M.G., O.B.E., Q.C., D.C.L.
The Hon. Mr. Justice Kerr	E. H. Wall, T.D.
* The Rt. Hon. Chief Justice Bora Laskin	The Rt. Hon. Lord Wilberforce, C.M.G., O.B.E.
F. H. Lawson, D.C.L., F.B.A.	G. G. Williams
R. A. Lynex	

\* Commonwealth Member

## **ADVISORY BOARD**

### *Public International Law Section*

*Chairman:* SIR GERALD FITZMAURICE, G.C.M.G., Q.C.

### *Private International Law Section*

*Chairman:* THE RT. HON. LORD JUSTICE SCARMAN, O.B.E.

### *Comparative Law Section*

*Chairman:* THE RT. HON. LORD CROSS OF CHELSEA

## **DIRECTOR**

**PROFESSOR K. R. SIMMONDS**

## TABLE OF CONTENTS

(An alphabetical Index of Contributors, a Subject Index, an Index of Cases Noted and an Index of Book Reviews and Books Received will be found at the end of this Volume.)

### ARTICLES

	PAGE
CRUSE v. CHITTUM: HABITUAL RESIDENCE JUDICIALLY EXPLORED	<i>C. Hall</i> 1
INDUSTRIAL PROPERTY AND THE EEC TREATY	<i>F. A. Mann</i> 31
FULL FAITH AND CREDIT COMES TO THE COMMON MARKET: AN ANALYSIS OF THE PROVISIONS OF THE CONVENTION ON JURISDICTION AND ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS	<i>Lee S. Bartlett</i> 44
POSSESSION IN A MIXED LEGAL SYSTEM—THE SRI LANKA EXPERIENCE	<i>S. Basnayake</i> 61
THE FISHERIES JURISDICTION CASES: THE CONTRIBUTION OF THE INTERNATIONAL COURT OF JUSTICE TO THE DEBATE ON COASTAL STATES' FISHERIES RIGHTS	<i>R. R. Churchill</i> 82
THE IMPLEMENTATION OF INTERNATIONAL JUDICIAL DECISIONS BY DOMESTIC COURTS	<i>Christoph H. Schreuer</i> 153
COMMONWEALTH INNOVATIONS ON THE LAW OF PROVOCATION	<i>M. Sornarajah</i> 184
THE LAW-CREATIVE ROLE OF APPELLATE COURTS IN DEVELOPING COUNTRIES: AN EMPHASIS ON EAST AFRICA	<i>Jack A. Hiller</i> 205
COMPENSATION FOR NATIONALISATION OF FOREIGN PROPERTY: THE BORDERLAND BETWEEN LAW AND EQUITY	<i>Francesco Francioni</i> 255
THE HOUSE OF LORDS AND THE RACE RELATIONS ACT: A COMMENT ON <i>Ealing v. Race Relations Board</i>	<i>John Hucker</i> 284
THE JUDICIAL POWER UNDER IRISH CONSTITUTIONAL LAW	<i>J. P. Casey</i> 305
COMBINED TRANSPORT	<i>O. C. Giles</i> 379
ARBITRATION AND THE SETTLEMENT OF COMMERCIAL DISPUTES: A SELECTIVE SURVEY OF AFRICAN PRACTICE	<i>S. Azadon Tiewul and Francis A. Tsegah</i> 393
VAN DUYN v. THE HOME OFFICE: THE DIRECT EFFECTIVENESS OF DIRECTIVES	<i>K. R. Simmonds</i> 419
IS EQUITABLE ESTOPPEL DEAD OR ALIVE IN AUSTRALIA?	<i>Nicholas Seddon</i> 438
UNITED NATIONS MOVEMENTS TOWARD WORLD LAW	<i>Guenter Weissberg</i> 460

## ARTICLES—continued

	PAGE
A NEW DIMENSION TO INTERNATIONAL COOPERATION: THE OECD INTERNATIONAL ENERGY AGREEMENT	<i>J. C. Woodliffe</i> 525
A NEW INTERNATIONAL ECONOMIC ORDER	<i>Robin C. A. White</i> 542
OFFER AND ACCEPTANCE AND RELATED QUESTIONS IN THE ENGLISH CONFLICT OF LAWS	<i>A. J. E. Jaffey</i> 603
OPPENHEIMER v. CATTERMOLÉ—THE CURTAIN FALLS	<i>J. G. Merrills</i> 617
THE RECOGNITION OF AMERICAN DIVORCES IN ENGLAND	<i>J. H. C. Morris</i> 635
INDUSTRIAL PROPERTY AND THE EEC TREATY—A REPLY	<i>F. G. Jacobs</i> 643
THE INDIVIDUAL AND EUROPEAN LAW	<i>A. G. Toth</i> 659
RIGHTS OF THE INDIVIDUAL TO CHALLENGE ADMINISTRATIVE ACTION BEFORE ADMINISTRATIVE COURTS IN FRANCE AND GERMANY	<i>Hans Gerald Crossland</i> 707
LIABILITY FOR PURE ECONOMIC LOSS NEGLIGENTLY CAUSED— FRENCH AND ENGLISH LAW COMPARED	<i>D. Marshall</i> 748
THE 1971 SOUTH-WEST AFRICAN OPINION—A NEW INTERNATIONAL JURIDICAL PHILOSOPHY	<i>Natalie K. Hevener</i> 791
INTERNATIONAL LEGAL PERSONALITY OF UNION REPUBLICS OF U.S.S.R.	<i>Henn-Juri Uibopuu</i> 811
RECKLESS MURDER IN COMMONWEALTH LAW	<i>M. Sornarajah</i> 846

## SHORTER ARTICLES, COMMENTS AND NOTES

Protection of an Innocent Spouse in Divorce: Myth or Reality?	<i>I. A. Saunders</i> 106
Excessive Self-Defence: Further Developments	<i>M. Sornarajah</i> 115
The Local Remedies Rule and Administrative Practices in the Euro- pean Convention on Human Rights	<i>E. McGovern</i> 119
Prerogative Powers and Extradition	<i>D. Brown</i> 127
Soviet Continental Shelf and Anti-Pollution Legislation	<i>W. E. Butler</i> 130
Foreign Customs and the English Criminal Law	<i>S. Poulter</i> 136
Where is the Locus Delicti?	<i>Lawrence Collins</i> 325
Joinder of Offenders in Malaysia, Singapore and England: A Comparative Analysis	<i>H. P. Lee</i> 328
Regional Approaches to Law of the Sea Problems: The European Community	<i>Michael Hardy</i> 336
Industrial Democracy and EEC Company Law: A Review of the Draft Fifth Directive	<i>Thomas P. Conlon</i> 348
Directors' Powers to Issue Shares: Two Contrasting Decisions	<i>M. E. Bennun</i> 359

**SHORTER ARTICLES, COMMENTS AND NOTES—continued**

	PAGE
Common Law in England and Sri Lanka: The Meaning of Words <i>L. J. M. Cooray</i>	553
Gratuitous Bailment: Contract or Tort? <i>N. E. Palmer</i>	565
The Renton Report and the Preparation of Legislation <i>H. H. Marshall</i>	572
Allegations of Judicial Partiality and the Phillimore Report <i>Alexander McCall-Smith</i>	862
The Arbitration Act 1975 <i>Julian D. M. Lew</i>	870

**CURRENT LEGAL DEVELOPMENTS**

<i>Criminal Records: Great Britain; Environmental Protection: Great Britain; European Community Law: Federal Republic of Germany; International Commercial Arbitration: CMEA Convention, United States of America; Landlord &amp; Tenant: Great Britain</i>	141
<i>Aggression: United Nations; European Community Law: Germany (Federal Republic) and European Court of Justice; Outer Space: United Nations; Raw Materials: USSR—Germany (Federal Republic)</i>	369
<i>United Nations: Economic Rights and Duties; International Court: Nuclear Tests Cases; Disarmament: Biological Weapons; High Seas: Oil Pollution; European Community Law: The Lomé Agreement; Human Rights: Golder v. United Kingdom; European Court of Justice: Free Trade—Marks of Origin; Constitutional Development: Papua New Guinea; Law Reform: United Kingdom; Immigration: Australia—New Zealand; Abortion: France, Germany and Italy</i>	577
<i>Carriage by Sea: Liability for Passengers and Luggage; Carriage by Sea: Nuclear Damage; Conservation: Endangered Species; United Nations: Diplomatic Convention; Residence and Domicile: Council of Europe; Administrative Decisions: Protection for Individual in Europe; Sikkim: Constituent Unit of India; Sovereignty: United States of America; Trade Marks: United Kingdom; Collisions at Sea: United States of America; Prisons: France; Divorce: France; Charges for Legal Services: United States of America</i>	879
<b>BOOK REVIEWS</b>	148, 373, 590, 892
<b>BOOKS RECEIVED</b>	151, 376, 600, 904

**INDEX FOR VOLUME 24**

Contributors of Articles, Shorter Articles, Notes and Comments	907
Subject Index	909
Index of Cases Noted	913
Index of Book Reviews and Books Received	917