International and Comparative Law Quarterly

(incorporating the Quarterly of the Society of Comparative Legislation and International Law and the Transactions of the Grotius Society)

VOLUME 34

LONDON THE BRITISH INSTITUTE OF INTERNATIONAL AND COMPARATIVE LAW

1985

Published by the British Institute of International and Comparative Law, typeset by Alphabyte Ltd, Cheltenham, and printed in Great Britain by Oxford University Press.

© 1985 British Institute of International and Comparative Law

International and Comparative Law Quarterly

BOARD OF EDITORS

General Editor:
K. R. SIMMONDS

Assistant General Editor:
CELIA HAMPTON

P. B. CARTER
HAZEL FOX
A. K. R. KIRALFY
NORMAN S. MARSH, Q.C.
RICHARD O. PLENDER

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

Vice-Chairman: Sir Maurice 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. A. E. Anton, c.B.E., f.B.A. Professor D. W. Bowett, o.c., Professor Ian Brownlie, q.c., F.B.A. Lloyd N. Cutler Professor A. L. Diamond H.E. Judge T. O. Elias, Q.c. Sir Vincent Evans, G.C.M.G., M.B.E., Q.C. N. Fox Bassett Sir John Freeland, K.C.M.G. *The Hon. Sir Harry Gibbs Professor R. M. Goode, O.B.E. Professor R. H. Graveson, C.B.E., Q.C., LL.D. Professor C. J. Hamson, q.c. *M. Hidayatullah, o.B.E. *The Hon. Sir Isaac Hyatali Sir Jack I. H. Jacob, o.c., LL.D.

H.E. Judge Sir Robert Jennings, The Rt. Hon. Lord Justice Kerr *Professor R. St. J. Macdonald, Sir James McPetrie, K.C.M.G., O.B.E. F. A. Mann, C.B.E., LL.D., Dr. Jur., f.b.a. Norman S. Marsh, c.B.E., Q.C. The Hon. Lord Maxwell The Rt. Hon. Sir Robert Megarry, LL.D., F.B.A. Sir Percy Rugg, D.L. D. A. G. Sarre The Rt. Hon. Lord Scarman, O.B.E. R. L. Sigmon Professor K. R. Simmonds Sir Ian Sinclair, k.c.m.g., Q.c. Sir Francis Vallat, G.B.E., K.C.M.G., Q.C. E. H. Wall, T.D. G. G. Williams

*Commonwealth Member

ADVISORY BOARD

Public International Law Section Chairman: SIR IAN SINCLAIR, K.C.M.G., Q.C.

Private International Law Section Chairman: PROFESSOR R. H. GRAVESON, C.B.E., Q.C., LL.D.

Comparative Law Section
Chairman: The Rt. Hon. Sir Robert Megarry, LL.D., F.B.A.

DIRECTOR

LADY FOX

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 the volume)

ARTICLES

I	AGE
ARBITRATION AND THE COURTS: THE UNCITRAL MODEL LAW	
Michael Kerr	1
CORPORATE INSOLVENCY: AN ANALYSIS OF ENGLISH AND CANADIAN	
CORPORATE SALVAGE REFORM PROPOSALS Robert V. Wright	25
INTERNATIONAL BANKRUPTCY LAW IN SCANDINAVIA Michael Bogdan	49
SOME EUROPEAN DECISIONS ON NON-POSSESSORY SECURITY RIGHTS	
IN PRIVATE INTERNATIONAL LAW Theodor J. R. Schilling	87
Enforcement Jurisdiction, Foreign State Property and	
DIPLOMATIC IMMUNITY Hazel Fox	115
PROSPECTS FOR AN INTERNATIONAL LEGAL REGIME FOR DIRECT	
TELEVISION BROADCASTING Carl Q. Christol	142
THE REFORM OF PRIVATE INTERNATIONAL LAW IN THE FEDERAL	
Republic of Germany Brice Dickson	231
New Developments in Humanitarian Law: A Challenge to the	
Concept of Sovereignty	
Thomas Fleiner-Gerster and Michael A. Meyer	267
International Law and the Valuation of Nationalised	
SHARES: Two French Decisions M. H. Mendelson	284
THE BATTLE OF THE FORMS: STANDARD TERM CONTRACTS IN	
Comparative Perspective Edward J. Jacobs	297
Avoiding Inflation Loss in Contract Damages Awards: The	
EQUITABLE DAMAGES SOLUTION Andrew Burgess	317
PROTECTING NEW CAR PURCHASERS: RECENT UNITED STATES AND	
English Developments Compared W. C. H. Ervine	342
THE ACTION FOR "WRONGFUL LIFE" IN ENGLAND AND THE UNITED	
STATES Harvey Teff	423
Human Tissue Transplants: Legal Liability in Different	
JURISDICTIONS Kenneth McK. Norrie	442
THE LIMITS OF COMPENSATION: AN AUSTRALIAN PERSPECTIVE ON	
Public Policy, Causation and Mitigation Colin Phegan	470
DEPORTATION OF ALIENS AND IMMIGRANTS FROM AUSTRALIA	
M. Sornarajah	498
FEDERAL CLAUSES: AN AUSTRALIAN PERSPECTIVE Henry Burmester	522
International Conflict of Laws and International Business	
Ian F. G. Rarter	538

PRACTICAL EXPERIENCE OF THE BRUSSELS JURISDICTION AND JUDGMENTS CONVENTION IN THE SIX ORIGINAL CONTRACTING	
STATES Christian Kohler	563
Intervention in the International Court: The Libya/Malta	
CONTINENTAL SHELF CASE Gerald P. McGinley	671
TERRORISM AND THE POLITICAL OFFENCE EXEMPTION REAPPRAISED	
Geoffrey S. Gilbert	695
THE PROBLEMS OF EXTRATERRITORIAL JURISDICTION: ECONOMIC	
Sovereignty and the Search for a Solution $A. V. Lowe$	724
THE LEX MERCATORIA IN INTERNATIONAL COMMERCIAL ARBITRATION	
Ole Lando	747
THE Press and the Law of Privacy Ruth Redmond-Cooper	769
LIABILITY FOR ANIMALS ON THE HIGHWAY: LEGISLATIVE REFORM IN	
THE COMMONWEALTH Philip H. Clarke	786
A DEFENCE OF THE DOCTRINE OF TRANSFERRED MALICE: ITS PLACE	
IN THE NIGERIAN CRIMINAL CODE Clifford Hall	805
Non-Insane and Insane Automatism: Reducing the	
SIGNIFICANCE OF A PROBLEMATIC DISTINCTION Eliezer Lederman	819

SHORTER ARTICLES, COMMENTS AND NOTES

Limitations on Judicial Freedom of Speech in West Germany and	
Switzerland H. Patrick Glenn	159
Human Rights, "Death Row", and Administrative Law Remedies	
Nigel S. Price	162
Reflections on Judicial Attitudes at the European Court	
Anthony M. Arnull	168
Actions for Damages in the English Courts for Breach of EEC	
Competition Law J. S. Davidson	178
Group Exemptions for Exclusive Distribution and Purchasing	
Agreements in the EEC Josephine Shaw	190
The Status of the United Nations Convention on the Law of the Sea 1982	
K. R. Simmonds	359
The Impact of the Law of the Sea Convention on the Regime for Islands:	
Problems for the Coastal State in Asserting Claims to "New-Born"	
Islands in Maritime Zones M. Habibur Rahman	368
The Status of the Individual under the European Convention on Human	
Rights and Contemporary International Law P. T. Muchlinski	376
Subordination Clauses in Mixed Agreements G. L. Close	382
The Recognition of Extra-Judicial Divorces P. St.J. Smart	392
Recognition of Extra-Judicial Divorces: The Transnational Divorce	
Christopher F. Forsyth	398
Some Legal Considerations on the Role and Structure of State Oil	
Companies: A Comparative View Kameel Khan	584
Peace-Keeping Attempts by the Organisation of African Unity G. J. Naldi	593
The Dikko Affair and Anglo-Nigerian Relations Adeoye Akinsanya	602
· · · · · · · · · · · · · · · · ·	

1985]	Table of Contents		vii
First Report of th	ne Foreign Affairs Committee of the 1	House of Commons	
•	· ·	Iain Cameron	610
The United King	dom-China Consular Agreement	C. A. Whomersley	621
Constitutional R	eview in an Unwritten Constitution	Joseph Jaconelli	627
The Medical Ter	mination of Pregnancy Act 1983 (Bar	bados) P. K. Menon	630
	er Proceedings": The Story to Date	S. M. Nott	838
	of the Common Law and Equity in 1 not the Cut-Off Date	Papua New Guinea:	
	Dhirendra K. Srivastava	and Derek Roebuck	850
BOOK REVIEV	vs	202, 403, 637,	858
BOOKS RECEI	VED	224, 418, 667,	883

INDEX FOR VOLUME 34

Contributors of Articles, Shorter Articles, Comments and Notes	887
Subject Index	889
Index of Cases Noted	902
Index of Rook Reviews and Books Received	908