CALIFORNIA WESTERN INTERNATIONAL LAW JOURNAL

VOLUME 15 SPRING 1985 NUMBER 2

CONTENTS

ARTICLES

United States Foreign Relations Law After *Chadha*
Michla Pomerance 201

Among the statutory provisions which became presumptively invalid with the Supreme Court's *Chadha* (legislative veto) decision of June 23, 1983, were veto provisions in such important foreign policy areas as war powers, arms exports, nuclear non-proliferation, foreign trade, foreign assistance and national emergencies. Although these vetoes were never used, the threat of their use was widely viewed as an important congressional weapon. This article traces the development of, and the constitutional controversy surrounding the legislative veto; examines the *Chadha* decision; reviews the plethora of relevant foreign policy legislative veto provisions; surveys the history of the non-use of foreign policy legislative vetoes — most prominently the cases of "near-use" with respect to Middle East arms sales and nuclear exports to India; analyzes the "severability" problem using the three-pronged test suggested by the court in *Chadha*; and explores possible future alternatives to the legislative veto. The author concludes that since the concerns which prompted foreign policy legislative vetoes persist, Congress may ultimately adopt statutory replacements for those vetoes, especially in the area of arms exports. However, in the interim, greater emphasis will probably be placed on informal non-statutory controls, consultations and understandings.

United States Jurisdictional Considerations in International Criminal Law
Bruce Zagaris
Jay Rosenthal 303

The United States has followed the trend of extending extraterritorial jurisdiction over international criminal matters. Evidence of this broader assertion of jurisdiction is provided by the recent extension of controls on technology exported to the Soviet Union, increased United States interdiction of foreign vessels on the high seas and the increased number of enforcement actions brought by the S.E.C. against foreign corporations. As a result of this trend, individuals and institutions are increasingly caught in situations where they are forced to violate either United States or foreign law. These conflicting assertions of jurisdiction have led to, *inter alia*, "blocking" legislation by foreign governments. In order to alleviate these jurisdictional conflicts, the authors suggest various mechanisms with which to reduce tensions and limit the inevitable conflicts which arise from the concurrent assertion of criminal jurisdiction.

Myths, Mercenaries and Contemporary International Law
James L. Taulbee 339

Mercenaries have played an important role in warfare throughout most of Western history. Their strategic usefulness, however, has been accompanied by mistrust and fear due to the lack of control over their activities. Out of this fear have come attempts to control the use of mercenaries by States. Initial problems in this area concern the general paucity of modern legal analysis on the subject, and the fact that work which does exist does not concern the key issue of formulating a legal definition of "mercenary." The author surveys past attempts to control the use of mercenaries and modern efforts to define the term in order to discern the environment for current and future possibilities of developing State responsibility for their actions. The author concludes that these endeavors may be missing the root problems of mercenary use and may work only to the detriment of the States involved.

COMMENTS

Introducing Competition to the European Economic Community Airline Industry
Leah Elizabeth Clifton 364

International Bountyhunting: A Question of State Responsibility
Perry John Seaman 397

BOOK REVIEW

The International Law of Pollution: Protecting the Global Environment in a World of Sovereign States *by Allen L. Springer*
Forest L. Grieves 418

BOOKS IN BRIEF 423

BOOKS RECEIVED 427