

THE LAW OF INTERNATIONAL TRANSACTIONS (1982). By Ferenc Madl. Akademiai Kiado, Budapest, Hungary. Pp. 206. Price \$19.50.

UNDOUBTEDLY THE book under review¹ is a commendable one, wherein the author has elaborated two main themes, namely, (i) comparative private international law; and (ii) the law of international economic relations.

The concept of comparative private international law has been discussed in the first four chapters. Regarding this concept the author has drawn heavily on Savigny, Szaszy, Schnitzer, Cavers, Ehrenzweig and specially from Rabel and Langen.

While in the first chapter the author has critically studied the "Earlier and New Concepts of Private International Law", in the second he throws light upon the following:

(i) The earlier concepts of traditional private international law are not satisfactory. On this point the author follows Langen.² Demonstrating the thesis in quoting the Permanent Court of International Justice in the *Serbian Loans* case, the author observes:

The classical private international law of all countries proceeds on the assumption that: 'Any contract which is not a contract between States in their capacity as subjects of international law is based on the municipal law of some country.' Hence the judge will have to tie up the international case with the municipal law of the one or the other country. It is at this point where the classical doctrine comes to naught and whence Langen's sharp criticism sets out.³

(ii) The other thing which the author has studied in this chapter is the new concept in international legal field, *i.e.*, transnational commercial law. Quoting Langen, the author observes:

Transnational law, essentially, is the common substratum of the solutions offered in the substantive municipal laws of the nations concerned. By transnational commercial laws we mean the aggregation of all those rules which hold good in the same or a very similar way for a given concrete legal situation in two or more spheres of national jurisdiction.⁴

The author in the third chapter points out those situations where the transnational law fails. He further adds critical remarks which indicate the limitations as well as perspectives of new concepts with greater clarity

1. Ferenc Madl, *The Law of International Transactions* (1982)

2. *Transnational Commercial Law* (1973).

3. Quoted in *supra* note 1 at 20.

4. *Id.* at 26.

and resolution.

“A comparative law synthesis theory” has been developed in chapter IV which is aimed at better jurisprudential nationalisations and pragmatic law making considerations in private international law. This theory has been elaborated on the concepts of torts, reciprocity, *renvoi*, juristic persons, sovereign immunity, etc.

The author quoting Rabel points out that “on the grounds of international conventions and other legal instruments implemented in practice a new *lex mercatoria* independent of the municipal laws and conflict laws, could be established as a fact to which comparative law may have contributed so much”.⁵

The second major theme which the author has discussed is entitled “The law of international economic relations”. Chapters V to IX deal with this newly developed concept. This has been adopted and developed by the author to give a rational structure to the complex set of those many regulations which channel international economic relations and cooperation in the present age. The author has tried to develop this concept because of the following reasons:

- (i) The world economy of international economic processes outgrowing mere barter trade outgrows the municipal commercial law. (ii) For the multiplicity of international commercial transactions more and more a non-municipal body of law born in international legislation usages and legal practice will be normative. (iii) The autonomous power of these is increased by harmonizing international arbitration; and (iv) by legal science-activity in comparative law.⁶

In addition to all these the author has taken ideas mainly from the new Hungarian foreign trade regarding this concept.

In a nutshell, by way of this book the author wants to develop the above mentioned two concepts, viz., (a) comparative law synthesis theory; and (b) international economic relations. But this is not an easy task. Only by reading and quoting the ideas of so many jurists a new theory cannot be developed. It requires patience and concerted world-wide discussion in greater detail. The present work can be more useful if the contents of transnational commercial law (noted in chapter III) *lex mercatoria* (in chapter IV) are rearranged, under the head of “International Economic Relation.”

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5. Rabel, *Das Recht des Verkaufes* 36 (1957). Quoted *id.* at 49.

6. Ferenc Madl, *id.* at 110.

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