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Preface

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PREFACE

The second issue of Volume 2 of the *Journal* begins with an article by Professor Kurt Biedenkopf, Chancellor of the University of Bochum, in West Germany, and a well known authority on E.E.C. antitrust law. Basing his analysis on a hypothetical problem, Professor Biedenkopf discusses the question of whether Articles 85 and 86 of the Treaty of Rome can be applied by E.E.C. institutions to prevent corporate acquisitions and mergers. The editors believe this article is particularly timely in view of the recent tendency of American corporations to acquire subsidiaries in the Common Market. Professor Biedenkopf concludes, after a thorough analysis of the Treaty provisions, pronouncements of E.E.C. institutions, and leading authorities on the subject, that Articles 85 and 86 do not provide a legal basis for *prevention* of acquisitions and mergers, but that they may provide authority for dealing with the harmful *effects* which may result from such events as a result of market domination and restraints of trade. The author expresses doubt, however, as to the authority of the Commission of the E.E.C. to require divestiture of required shares and subsidiaries.

In the second article, Alfred P. Knoll discusses the current and historic roles of United States executive agreements. He traces their increasing use and the corresponding decrease in the importance of formal treaties. Possible constitutional impediments to further use of the presidential prerogative are analyzed. He urges that consideration of the constitutional problems created by these agreements be left to practical analysis based on political necessities.

This issue's international forensic medicine section contains an article by Byron E. Siegel on the legal determination of the moment of death. In light of the problems raised by the rapid development of human organ transplantation, the varying situations in and responses of several countries are discussed. The author urges that the most sophisticated methods be used to determine the moment of death and that these methods be uniformly adopted on an international scale. Only after such uniformity through law is achieved, can work begin on other international transplantation problems.