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## Articles Noted

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## ARTICLES NOTED

### ANTITRUST

Markert, *Antitrust Aspects of Mergers in the EEC*, 5 TEXAS INT'L L. FORUM 32 (1969).— This article explores the growing tendency towards large corporate mergers in the EEC and the accommodating attitudes of that organization and its members. Contrasting the indefinite and largely unenforced guidelines of the EEC member nations to the standards imposed on United States' industry, the author successfully illustrates the European acceptance of large enterprise to the possible exclusion of open competition.

This continental *concentration euphoria* is the basis of the author's call for more effective merger control. This control would consist of notice to the public by the industry of proposed mergers, refined studies to determine their economic effect, and a series of stringent sanctions to prevent those mergers which study has shown to endanger the open market. (WPB)

### COLLECTIVE SECURITY

Cleveland, *The United States and The Future of NATO*, 7 ATL. COMM. Q. 216 (1969).— The author states that American participation in NATO is not, at the moment, a very controversial issue. NATO has always been supported by the administrations in power. NATO provides both military and political problems for the United States. The author stated that Europe depends on American participation in NATO as a deterrent to military aggression and as a necessary participant in the plan for collective security. The United States looks to its NATO allies for decision-making assistance. In the political sphere, the author found that the issues are not clearly defined because the United States is not interested in any territorial enlargement.

Politically, the greatest use of NATO is as a peace-keeping device. The problem in Czechoslovakia in 1968 came at a time when NATO had to use its political power to resolve the conflict, before it could have resulted in a military confrontation.

The author contends that, in the future, NATO will be facing more problems, but that the greatest problem for the United States will be the burden NATO places on American military resources. The question facing the United States is whether NATO is the only means to solve the problem of collective security. (KAH)

### CRIMINAL LAW — POLYGRAPH STUDY

Weinstein, Abrams, & Gibbons, *The Validity of the Polygraph with Hypnotically Induced Repression and Guilt*, 126 AM. J. PSYCHIATRY 1159 (1970).— The authors studied the effectiveness of hypnosis in reducing the validity of the polygraph or lie detector. A polygraph "monitors physiologic changes associated with emotional responses that in turn can be . . ." utilized by experts to differentiate between truthful and false statements.

Previous research has suggested that an individual can affect the accuracy of the polygraph by consciously or unconsciously altering his emotional response and thus his physiologic response. In an effort to test the ability of hypnosis to reduce the accuracy of the polygraph, six subjects capable of entering a deep hypnotic state were selected and split into two groups.

The members of the first group were instructed to enter an office and steal several denominations of currency. They were then "hypnotized to create amnesia for this act and to suggest that no guilt would be associated with this experience." Members of the second group, who were innocent of the theft, were told under hypnosis that they committed the crime, that they would experience guilt, and were further instructed to deny their guilt when tested.

A polygraph expert judged all members of the first group guilty and was unable to conclusively determine the guilt of the second group. The authors interpreted the results as an indication of the ease with which a polygraph analyst may be misled, and implied that similar results may accrue in the absence of hypnosis. They indicated that an objectionable act may be repressed "to the extent that the guilt and anxiety associated with the act could escape detection by the polygraph." Similarly, an innocent individual who is excessively anxious or guilty, may produce a reading indicative of actual guilt. The authors underscored the importance to the legal profession of both hypnotic and non-hypnotic repression and guilt, on polygraph readings. (HJH)

#### ENVIRONMENTAL PROBLEMS

Kennan, *To Prevent a World Wasteland: A Proposal*, 48 FOREIGN AFFAIRS 401 (1970).— Few would deny that pollution of the air and water can easily take on international ramifications. In this creative article the author recognizes the need for international machinery to deal with the serious problems confronting an industrialized world. He begins with an analysis of the problem, which he sees as being far from solved by currently existing domestic or international institutions. The author believes that current institutions are too small and lack the definite central structure and goals which are necessary to answer the grave scientific and political questions presented by international pollution. He recognizes, however, that presently existing organizations have done valuable work and should not be discarded without serious consideration.

A centralized international organization similar to an "academy of science" is the author's alternative to the presently existing organs. Formed under the aegis of the world's largest industrial countries, it would serve to collate information on air and water pollution from existing organizations, coordinate research and operational activities dealing with environmental problems, and establish international standards which hopefully would be followed by all nations. In addition, the organization could eventually find a means of enforcing its policies and orders against any violators.

In final analysis, the author recognizes the difficulty of establishing such an institution, but emphasizes that the imperative needs should be sufficient to convince the world's powers to undertake the most profitable political and financial long-term investment in history. All that is left is a legal method for its establishment. (RDM)

#### ENVIRONMENTAL PROBLEMS

Morgan & Roan, *Chlorinated Hydrocarbon Pesticide Residue in Human Tissues*, 20 ARCH. ENVIRON. HEALTH 452 (1970).— The authors report on a study of pesticide storage levels of DDT, DDE, and dieldrin in human tissue, and state that within the United States no broad geographic dif-

ferences in such storage levels were apparent. Adipose stores in Arizona residents were studied in seventy tissue sets from autopsies performed in Tuscon, Arizona, in 1966 and 1968. Levels in fat, liver, kidney, and brain specimens revealed a higher presence of DDT and DDE in the United States' residents than in those of western European countries which were probably reflective of the more limited use of DDT in western Europe. Tissue contents of dieldrin, however, were found to be quite similar to European levels.

It was stated that in the past five years adipose stores in Arizona residents have shown no increase. This fact, the authors contend, supports the view that tissue stores result mainly from diet. The foodstuffs which constitute Americans' diet have been checked for pesticide contamination throughout the country. Findings indicate that pesticide contamination has been held below legally prescribed limits for the past fourteen years.

Extensive data presented by the authors lends no support to the view that high pesticide stores are associated with specific diseases or tissue injuries. However, there is reason to believe that dieldrin is more extensively distributed to nonlipid cellular and blood components than are DDT and DDE. Nonlipid storage may be more important in the case of dieldrin than it is for DDT and its metabolites. (JRT)

#### ENVIRONMENTAL PROBLEMS

Perron & Barrentine, *Human Serum DDT Concentration Related To Environmental DDT Exposure*, 20 ARCH. OF ENVIRON. HEALTH 368 (1970).— In a study of the epidemiological significance of serum DDT, the sera of three groups of men with differing degrees of occupational pesticide exposure were analyzed by gas-liquid chromatography. The authors reported that there was no clear relationship between the degree of occupational DDT exposure and total serum DDT concentration. In all three groups a relative decrease in the serum DDE, a degradation product of DDT, was found.

It is argued that the results suggest that local agriculture and municipal insecticide applications increased the DDT exposure of all subjects regardless of their degree of occupational exposure and that DDT appeared in their sera soon after absorption from the external environment. (JDB)

#### EXPROPRIATION

Bortek, *The Hickenlooper Amendment in the Courts: The Need for an Internationally Acceptable Interpretation*, 3 SUFFOLK U. L. REV. 513 (1969).— In *Banco Nacional de Cuba v. Sabbatino*, 376 U.S. 398 (1964), the Supreme Court of the United States held that the "act of state" doctrine precluded national courts from inquiring into the validity of an expropriation of property, within its jurisdiction, made by a foreign government. Congress responded to this holding by passing the Hickenlooper Amendment. According to the author, this was an overreaction to the Sabbatino decision whereby Congress set its own standards of compensation for expropriation-foreign aid suspension. The author also criticizes the Hickenlooper Amendment as a "complete congressional misunderstanding" of what constitutes an appropriate application of international law in an expropriatory situation. His contention is that the Amendment disregards sovereign immunity, which is the foundation of international law, and substitutes congressionally determined standards of the laws of nations. This detracts from the United States' influence in the international legal community.

The approach of the article is to consider the Constitutional authorization for the Hickenlooper Amendment and then to examine the judicial decisions made after it was effective. The author believes that there has been a judicial rejection of the Amendment and an implied return to the holding in *Banco Nacional de Cuba v. Sabbatino*. Finally, the International Petroleum Company-Peru crisis is used to illustrate that, where there are no international tribunals for settling disputes, countries will go to external actions against the United States.

The author wants national courts to assert themselves as extranational tribunals which will examine international disputes. He concludes that this would necessitate reinstating the "act of state" doctrine as an absolute defense to foreign sovereigns in United States courts. Unless this is done the author fears that the United States will not be able to maintain a position as a responsible world leader. (JPR)

#### FORENSIC MEDICINE

Note, *Compulsory Removal of Cadaver Organs*, 69 COLUM. L. REV. 693 (1969).— This note deals with possible state and federal constitutional requirements raised by compulsory cadaver organ removal. This procedure is a possible solution to the anticipated need for viable organs and the failure of voluntary supplies to meet this demand.

In briefly dealing with the existing requirements in most states for ante-mortem gifts, the author indicates they are too cumbersome. For increased organ procurement, the author proposes the adoption of the Uniform Anatomical Gift Act.

The problem of supply could not be solved by this modification alone, however. The application of the concept of eminent domain toward the cadaver is suggested as an answer.

In addition, question is raised as to what would be just compensation. The author's conclusion is that current tests of value are inapplicable or impractical and, therefore, the amount of compensation should be fixed by statute.

The first amendment prohibition against the enactment of laws infringing upon the free exercise of religion will come into conflict with any compulsory organ removal statute, for some religious groups demand the interment of their dead intact. Upon this premise, the author discusses the direct and indirect burden on religion tests used by the Supreme Court. The author concludes that even though the burden created by the statute would be direct in nature, since there is no intention on the part of the state to proscribe the activity involved, exceptions would not defeat the state policy. Several alternative methods of obtaining organs short of compulsory organ removal are discussed and the deficiencies in each are pointed out.

The note emphasizes the premise that the state has a valid interest in preserving the lives of its citizens and concludes that, despite the difficulty of the area, legislatures should pass the necessary laws. (LIW)

#### FORENSIC MEDICINE

Dunn, *Legal Medicine in American Law Schools and Medical Schools: A Survey*, 9 COLUMBIA COLLEGE PRE-MED 4 (1970).— This article represents the results of a comprehensive study of the current status of legal medicine in the law schools and medical schools of the United States. Using law schools approved by the Association of American Law Schools and four

year medical schools approved by the Association of American Medical Colleges as a base, the author found that approximately 59 percent of all A.A.L.S. schools offered formal course work in legal medicine, as opposed to 58 percent for the members of the A.A.M.C. The law school courses were all elective and tended to be split between those with a heavy emphasis on anatomy and personal injury and those involving psychiatry and the law. The medical school courses were found to be very superficial, not taken too seriously by students and faculty, and poorly attended. The author contends, however, that even though an increased exposure to a more comprehensive legal medicine curriculum is desirable for students in both professions, the medical student has a greater immediate need for this type of instruction, since the probability of his having to deal with an attorney and/or the judicial system during his professional career is much higher than the probability that the average law student will have to perform professionally within the medical world.

The author argues for an increased emphasis on interprofessional understanding, stating that only through an exposure to the methods and models of his co-professional's discipline will the physician or attorney be able to understand and interact effectively with members of the other discipline.

An extensive appendix to the article illustrates the questionnaires used in the survey and also the syllabi of courses in legal medicine offered at a variety of schools. (LJD)

#### FORENSIC MEDICINE — ALCOHOLISM

Roman & Trice, *The Development of Deviant Drinking Behavior*, 20 ARCH. OF ENVIRON. HEALTH 424 (1970).— The authors examine nine different organizational roles and work related circumstances — termed risk factors — which create an increased probability for the development of deviant drinking behavior. These risk factors are biological or environmental conditions which may be conducive to the development of deviant adaptations. It is argued that the identification of risk situations could allow for both the closer observation of individuals placed in them and the implementation of preliminary steps toward prevention.

The nine risk factors presented are divided into three basic groups: those that deal with the lack of visibility within the organizational structure, those in which stressors stemming from an absence of structure may be generative of anxiety, and those in which the absence of social controls are prominent. The risk factors related to lack of job visibility involved job statuses in which production goals were nebulous, work hours and output schedules were flexible at the individual's option, and job requirements kept the individual from the purview of supervisors and work associates. Situations related to the absence of structure were said to include work addiction, work role removal and occupational obsolescence, and entrance into a novel job role. Circumstances prominent in the absence of social controls included those in which drinking was required in the work role, the individual's pathological drinking patterns were beneficial to others in the organization, and the individual moved from a socially controlled job situation to an uncontrolled but nevertheless stressful one.

While the authors do not imply that placement in these circumstances is necessarily predictive of deviant drinking behavior, case studies indicate these circumstances to be typical precursors. (JCS)

## FORENSIC MEDICINE — COMPUTERIZED DATA

Stroebe and Glueck, *Computer Derived Global Judgments in Psychiatry*, 126 AM. J. PSYCHIATRY 1057 (1970).— The authors point out that existing global judgment procedures can either be distorted by infrequent observations of the patients by the therapist or be influenced by the therapist's unconscious biases. Stroebe and Glueck have developed a method of obtaining computer derived global judgments based on daily nursing reports. Data for their system is gathered by regular nurses who fill out a simple behavior index form for each patient twice daily. After this information is corrected, it is compared with the patient's pretreatment records. In a few days, it then becomes apparent whether, with a given method of treatment, the patient's condition is significantly better, significantly worse, or has not changed. The level of allowable error can be varied at the discretion of the clinician.

The authors discuss in some detail three cases in which the Minnesota Multiphasic Personality Inventory and the Minnesota Hartford Personality Assays were compared with their computer global judgments. The results of all three methods compared favorably. With respect to patient change, the computer global judgments were reported to have given faster and more precise information than the traditional procedures. The authors state that the major advantages of computer derived global judgments are the daily collection of data and the independent source of evaluation found in the nursing staff.

The authors hope to make their system more versatile and predict that someday a psychiatrist will be able to consult the records of hundreds of thousands of patients before making a clinical decision. (LWN)

## FORENSIC MEDICINE — CRIMINAL ABNORMALITIES

Melnyk et al., *XYY Survey In An Institution For Sex Offenders and the Mentally Ill*, 224 NATURE 369 (1969).— A survey of two hundred, 47 chromosome, XYY, tall, anti-social male patients was conducted at Atascadero State Hospital in California. The data compiled classified these individuals in two categories: the mentally disordered sex offenders (MDSO) and the mentally ill, criminally insane (MICI). The former were characterized as those committed for child molestation, incest, forcible rape, and sexual deviation, while the latter revealed their psychotic disorders in offenses such as homicide, assault, arson and aggressive acting out.

This survey indicated that among the MDSO group, a higher rate of 47 chromosome, XYY individuals were found. Moreover, the IQ ratings of this group were near normal while those in the MICI group were found to be subnormal. The authors contend that, contrary to prior beliefs, the additional Y chromosome does not necessarily impair one's intelligence and that no conclusive proof has been established which suggests a definite criminal pattern among individuals with an extra Y chromosome. However, their anti-social behavior has been directed more toward property than persons. (RJD)

## FORENSIC MEDICINE — CYCLAMATES

Egeberg et al., *Report to the Secretary of HEW from The Medical Advisory Group on Cyclamates*, 211 JAMA 1358 (1970).— The authors examine the history of research on cyclamates which ultimately resulted in their recent removal from certain classes of food products. Research into the car-

cinogenic and harmful effects of cyclamates is outlined thoroughly and administrative action relative to these studies is noted in detail.

The 1958 Food Additives Amendment to the Federal Food, Drug, and Cosmetic Act of 1938 specifically exempted substances generally regarded as safe. Earlier studies on cyclamates used in special diet foods prompted their inclusion on the "safe list." Since the National Academy of Sciences-National Research Council (NAS-NRC) had recommended a maximum daily intake of 5 gm., and since the sweetener was used in tablets of only 0.05 gm., a "no limit" recommendation was accepted.

By 1967, the increased number of people using foods containing cyclamates to control weight caused NAS-NRC to re-evaluate their recommendations. These studies resulted in a Food and Drug Administration proposal that labeling be modified, so that people could estimate their daily intake of the drug.

Since 1967, evidence of possible hazards in the use of cyclamates has come to light in studies of rodents. Bladder tumors were discovered in mice in which pellets of the drug had been implanted. Although it was agreed that there was no relation between these experiments and oral consumption of the drug, new experiments were encouraged.

In 1969, some rats in an experiment at the Food and Drug Research Laboratories at Long Island, N.Y. were shown to be able to convert cyclamate to cyclohexylamine (CHA), a known impurity of commercial cyclamate. CHA was shown to have carcinogenic effect in rats. On October 18, 1969, HEW Secretary Robert H. Finch ordered cyclamates removed from the "safe list" as a result of these experiments.

The authors discuss experimental developments since the October 18 announcement, also. It has been found that most species, including humans, which have been fed cyclamates, can develop the capacity to convert it to CHA. At high doses in humans, the drug will cause dermatitis and convulsions. It is also reported that cyclamates may change the effects of certain other drugs on the body.

While the authors recognized beneficial effects of cyclamates to diabetics or overweight persons, they recommended the lowest possible exposures, and use only on the advice of a clinician. (JTF)

#### FORENSIC MEDICINE — EUTHANASIA

Brown, et al., *The Preservation of Life*, 211 J.A.M.A. 1 (1970).— The authors have conducted a survey of 418 staff physicians at the Swedish Hospital Medical Center (a community hospital) and the hospital of the University of Washington, both in Seattle, probing physicians' attitudes concerning the termination of life by negative euthanasia (omitting procedures necessary to maintain life), positive euthanasia (initiating procedures which accelerate death), dialysis for chronic uremia patients, abortion in various circumstances, and the establishment of a health board which physicians could consult when questions arose concerning the extension of the life of terminal patients.

The survey showed that more requests for negative euthanasia originated from the patient's family than from the patient and that more of these requests were received at the Swedish Hospital Medical Center, the community hospital. The authors noted that the pressures on physicians to prolong life stemmed from technical advances which made possible a longer existence for terminal patients, and from the religious sentiments of the patient, his family, and the doctor. These pressures have their bases in



the Fifth Commandment, the Hippocratic Oath, the traditional concern of western medicine to preserve life, and lastly, the physician's fear of malpractice suits.

It is reported that most of the change-oriented physicians would carry out negative euthanasia after obtaining a statement signed by the patient or relatives authorizing them to do so. The author asserts that a number of physicians are currently hoping for changes in social values to allow for positive euthanasia, which they would perform if society were to approve. They also favor abortion for medical reasons, for economic and social reasons, and for convenience.

The university hospital is reported to be more change-oriented than the community hospital. Male physicians are less conservative than their female colleagues; doctors in their thirties are more liberal than those in their sixties. Those specialists rendering less traditional patient care (anesthesiologists, pathologists, radiologists, and psychiatrists) are quicker to favor change, whereas surgeons are least likely to reflect new attitudes toward the prolongation of life. (KVS)

#### FORENSIC MEDICINE — HOMOSEXUALITY

Bancroft, *Homosexuality in the Male*, 3 BRIT. J. HOSP. MED. 168 (1970).— The author discusses and clarifies the role which a doctor must assume when confronted with the challenge of treating a homosexual patient. To this end the author surveys the historical attitudes of society in general towards homosexuality. This survey leads to a discussion of the nature of homosexuality and a consideration of the interplay between environmental and genetic factors which tend to turn a person toward homosexual behavior.

The author's contention is that no clear analysis is available which produces insight into the exact causes (qualitative and quantitative) which determine an individual's inclination toward homosexual, as opposed to heterosexual relations. He argues that this inclination is a result of the interaction within an individual of different environmental, genetic, congenital and other factors, the accurate measure of which is not possible to obtain at this time. The variability of factors which contribute to this dynamic leads the author to caution that no single method of treatment has shown itself to be superior. He concludes that a straightforward counseling approach is probably most desirable, provided the doctor has a sufficient appreciation of the condition and that he does not overlook the fact that homosexuality may be the most desirable alternative in some cases. (DJN)

#### FORENSIC MEDICINE — PSYCHOPATHOLOGY

Whitely, *The Psychopath and His Treatment*, 3 BRIT. J. OF HOSP. MED. 263 (1970).— The author discusses the confusion and lack of agreement over the definition, aetiology, and treatment of the psychopath, and presents an outline of the prevalent thought and trends regarding psychopathic disorder.

The author states that no sufficient definition of psychopathy has been yet universally accepted. Various attempts at definition are noted. He points out that, generally, psychopathy has been recognized as a distinct abnormality, but notes that disputes have arisen over the validity of the term as a medical classification.

The aetiology of psychopathy is no more definite. Various approaches are discussed at some length, but in his summary the author explains that no single physical, hereditary, cerebral, psychodynamic, or sociological factor outweighs the others. All of these seem to contribute in varying degrees to adversely affecting personality and emotional development at some vulnerable moment. He goes on to say that social deviancy results as the individual becomes fixated at an immature level and ceases to grow more socially aware.

Various available treatments are discussed: physical treatment, individual psychotherapy, group therapy, and the therapeutic community. The author sees psychotherapy as the most hopeful treatment, but he states that sociological approaches usually prevail as a treatment tool over medical or psychological processes.

The author discusses the benefits of the popular therapeutic community and the manner in which one is conducted. He feels strongly that it is important to place the individual psychopath in the regime most conducive to his improvement. Therefore, he contends that a wide variety of treatments and controls must be available through welfare agencies.

Pertinent legal considerations are discussed by the author. He notes that existing legislation provides only for the admission and treatment of only those psychopaths under twenty-one, and that this treatment ends at age twenty-five. He contends that this legislation has not been effectively employed to bring psychopaths into the treatment process. The author emphasizes that the way in which treatment is obtained is an important factor in the patient's receptivity and is also an important legal consideration, because he believes that the law reflects public opinion rather than the ideas of the experts on psychopathy.

Noting a slow trend away from a punitive and repressive attitude toward psychopaths, the author hopes for a better understanding of people suffering from this personality maldevelopment in the near future. (KNC)

#### FORENSIC MEDICINE — SOCIAL BEHAVIOR

Gunn & Fenton, *Epilepsy in Prisons: A Diagnostic Survey*, BRIT. MED. J., 1969, 4, 326.— The authors conducted this study to discover whether the previous finding of a higher percentage of epileptics in prisons than in the general population could be substantiated when a standard definition of epilepsy was applied.

Studies were made at thirty prisons in England and Wales, twenty of which had initially reported four or more epileptics, and ten of which had reported only an occasional epileptic. Similar studies were made of individuals in a control group and with groups of inmates designated as "epileptic" or "doubtfully epileptic" by the prison doctors. Information was compiled by means of lengthy personal interviews, medical and personal histories, previous hospital records, E.E.G. examinations, and any staff descriptions of attacks.

The authors sought to establish a standardized definition which would be objective and acceptable to "epileptologists," [sic], in general. Old definitions were considered and a new "more clinically orientated phenomenological definition and classification" was formulated. Four categories were established to classify the types of attacks.

The data was then compiled and each individual rated as "epileptic,"

"doubtfully epileptic," or "non-epileptic." Explanations as to how rating was achieved and charts as to results were included.

Applying the new standards, at least 7.1 epileptics were found per 1000 prisoners, a much higher percentage than in the general population. A comparison was made with old figures and other studies, and reasons were stated why the new figure might still be a low estimate for epileptics in the prison population.

Four factors were proposed as possible reasons behind this anti-social tendency of epileptics: 1) personality and behavioural problems stemming from the type of epilepsy; 2) reaction against rejection by society; 3) possible environmental influences such as the increased risk of brain damage at birth and in childhood at lower economic levels; and 4) higher risk of brain damage from the behaviour of "disorganized impulsive personalities, prone to get into social difficulty."

The need for further exploration of the problem through the use of collected data was emphasized for both criminologists and medical practitioners. (KNC)

#### OCEANS — JURISDICTION

*Miles, Technology, Ocean Management, and the Law of the Sea: Some Current History*, 46 DENVER L.J. 240 (1969).— This article begins by tracing the history of the continuing conflict between nations concerning the most satisfactory limit to place on control over contiguous oceans. The factors which lead a nation to choose a 3, 6 or 12 mile limit to its territorial sea are based primarily on economy and technology, both of which have changed significantly in the past few decades. The author points out that there have been five uses to which man has put the oceans: transportation and communication, food, minerals, national security and recreation.

In discussing the 1930 Hague Codification Conference, and the United Nations Geneva Conferences of 1958 and 1960, the author stresses the inflexibility of the participating nations. The positions taken at these meetings and the alliances and voting blocs developed were clearly predictable and represent the ancient dichotomy between the stronger and weaker nations. The more powerful, more technically superior nations all favored the lesser limit of 3 miles to their territorial waters due largely to their ability to cruise on a world wide scale. The lesser nations, on the other hand, uniformly insisted upon a greater than 3 mile limit, up to the maximum of 200 miles sought by Chile, Peru, Costa Rica and El Salvador, all claiming such a limit necessary to the preservation of their fishing industries.

Since 1960, the author feels that there has been a shift from the problem of jurisdiction over the oceans, as it related to coastal fisheries, to the present, where the concern seems to be over the limits of the continental shelf and the ocean floor beyond it. Whatever limits are eventually set, it is clear that they have to be enforced and constantly re-evaluated in light of technological innovations in such fields as fishing, oil drilling, mining, and other peaceful uses. (WLF)

#### OCEANS — DATA

Secretariats of UNESCO, IOC and IMCO, *Legal Problems Associated With Ocean Data Acquisition Systems (ODAS)*, New York, Unipub, Inc. 1969. Pp. 40. \$1.50.— The Intergovernmental Oceanographic Commission (IOC) has been concerned with legal problems associated with the securing

and maintenance of instruments for data acquisition on and in the ocean for close to a decade. This study was undertaken under the auspices of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and with the assistance of the Intergovernmental Maritime Consultative Organization (IMCO). The paper addresses itself to the issues of developing adequate protection for ocean data acquisition systems (ODAS) and developing measures to provide for the safety of shipping. The report includes definition sections, historical background, domestic laws and regulations, and existing international legislation related to ODAS. With the field of oceanography expanding at an ever faster rate, the need for clarification of international law in the area of ODAS is imperative, lest the scramble for earth's last frontier lead to dispute or conflict. This paper provides excellent introductory material to ODAS and it will be used at the Preparatory Conference of Governmental Experts on the Legal Status of Ocean Data Acquisition Systems to stimulate much-needed action in this area. (WDB)

#### TRADE AGREEMENTS

Picker, *Pacific Partnership: The New Zealand-Australia Free Trade Agreement*, 7 MELBOURNE L. REV. 67 (1969).— This article presents an in depth, yet succinct analysis of the development and implementation of the New Zealand-Australia Free Trade Agreement (NAFTA). The author describes many basic aspects of NAFTA such as its status under the General Agreement on Tariffs and Trade (GATT), membership, elimination of duties, protective features, and administration. In addition, the author clarifies the intent of broad provisions relating to trade liberalization and prohibition of quantitative restrictions quite well. Of particular interest, because of its pioneering role among free trade agreements, is the explanation of Article 3, paragraph 7, which allows industries in two countries to integrate production and marketing. In his final section, the author discusses the problem of special preferences which Australia confers upon New Zealand. While the use of preferences violates Article I of GATT, Article XXIV of GATT encourages the establishment of free trade areas. The author concludes that while the special preferences are technically a GATT violation, this infraction may well be outweighed by the value of increased co-operation between the two countries, which could be the basis of a larger trans-Tasman free trade area in the future. (JEM)

#### WAR CONDUCT

Mudge, *Starvation as a Means of Warfare*, 4 INT'L LAW. 228 (1970).— In view of today's concern for the intricacies of nuclear strategy, deterrence, and arms limitation, it may seem rather anachronistic to confront the problems of warfare by starvation. Nevertheless, the recent civil war in Nigeria, which elicited moral protests throughout much of the world, has shown dramatically that starvation is a very real element of conflict today. The author discusses the general legality of starvation, and particularly that of Biafra.

The author points out that the historical constraints on acts of war are military necessity, humanity, and chivalry. These criteria are embodied in the Hague Convention IV of 1907 and Laws and Customs of Warfare, but they include no specific prohibition against starvation of the enemy. Several problems arise in applying these tenets to an actual conflict. For ex-

ample, it is very difficult to make a strict separation of military and civilian populations. Moreover, an act calculated to affect the military forces may also affect civilians. The author concludes that these three constraints are too nebulous to prohibit starvation under most circumstances and would definitely not render the position of the Federal Nigerian Army illegal.

The author also discusses the Geneva Convention Relative to the Protection of Civilians of 1949. However, in neither international nor national conflicts is there a binding obligation to accept the proposals of impartial humanitarian organizations, such as the International Red Cross. To examine the traditional viewpoint, the author presents the positions of both militarists and historians relative to several wars, including the American Civil War and World War II. In the face of both history and existing conventions, he concludes that there is no doubt as to the legality of starvation as a means of warfare.

Finally, the author discusses an alternative definition of legal starvation which would limit the circumstances where it could be used. The test of legality would be whether or not starvation and hunger would be reasonably likely to lead to capitulation. However, this definition might be somewhat impractical, since the beleaguered enemy would be encouraged to declare their readiness to die by starvation. The situation could devolve into a dispute over the sincerity of such declarations, or possibly over the number of deaths by starvation the enemy would accept before capitulation. (DFW)