

AMERICAN BRANCH
OF THE
INTERNATIONAL LAW ASSOCIATION

(FOUNDED 1873)

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ILA NEWSLETTER

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GRATEFUL THANKS TO CYNTHIA LICHTENSTEIN; WELCOME TO ED GORDON

As the new officers (now listed on the Letterhead to the left) begin their tenure with the Branch, we would like to give our warm thanks to outgoing President Cynthia Lichtenstein for her years of fine leadership as the Branch President. Cynthia, who served as President for approximately the last six years, has been elevated to the position of Chair of the Executive Committee.

Our new President, Prof. Edward Gordon of Albany Law School, has served on the Executive Committee since 1979, and was the founding editor of *IPN*. We wish our new President well at the helm of the American Branch. A note to the Branch from Professor Gordon is on page 2 of this Newsletter.

INTERNATIONAL LAW WEEKEND 1993 - October 28 to 30

Mark your calendars for International Law Weekend 1993, which will be held again this year in New York City, beginning on Thursday, October 28. This year's Program Committee consists of David A. Martin (Chair), the Henry L. & Grace Doherty Charitable Foundation Professor of Law at the University of Virginia School of Law; Stephen Shapiro, Esq. (Vice Chair), a New York practitioner; Prof. Anne-Marie Burley of the University of Chicago Law School; Prof. Sherri L. Burr of the University of New Mexico School of Law; Maria Vicien-Milburn, Registrar of the United Nations Administrative Tribunal, who is the designee of the American Foreign Law Association, a co-sponsor of International Law Weekend; and

Prof. David Bederman of Emory University School of Law. We will have more information on the program in the next edition of the Newsletter, which we expect to distribute in early September.

NOTE FROM THE PRESIDENT OF THE BRANCH

Until now, the operations of the Branch have run along two tracks: our own and the ILA's. On our own we have developed *International Practitioner's Notebook*, the Newsletter, the Proceedings, International Law Weekend and, of course, the work of Branch committees. Through the ILA, Branch members can participate in international committees and the ILA's biennial conferences.

We are beginning to construct a third, multidimensional track. For the past few months, we have been investigating bilateral and multilateral projects with and among other ILA branches, individuals in other countries, and organizations in the United States with interests akin to those of our members. Our principal objectives are, first, to provide additional means for Branch members, who wish to do so, to network directly with persons having similar interests, wherever they reside and whatever their organizational affiliations; and second, coextensively with the first, to invent new ways of facilitating an ongoing stream of communication among international lawyers and scholars without regard to national boundaries.

A number of factors coincide to encourage the belief that the time for this expansion has arrived: the end of the Cold War; incontrovertible evidence of a demand for a globally linked, intellectually and culturally enhanced collegium of international lawyers and scholars; the advent of and ready access throughout the world to virtually instantaneous communications equipment; and, finally, a sense that, for one reason or another, existing media do not adequately respond to the demand or utilize the technology available to satisfy it.

The ILA continues to be a vital link for us; in the main, it is what distinguishes us from national and local bar associations and other learned societies. To be candid, however, is to acknowledge that the ILA is not as energetic an organization as we would like it to be. We can take heart in the fact that, in recent months, we have been able to increase the number of Branch members involved directly in ILA committee work. Credit for this happy development goes to our Co-Directors of Study, Professors Nafziger and Rubin, to whom I have delegated primary responsibility for coordinating our own with the ILA's committee assignments. Credit also goes to James R. Crawford, Whewell Professor of International Law at Cambridge University, who is the ILA's Director of Studies.

We are close, however, to reaching the limits of the ILA's existing organizational capacity to help us pursue our objectives. The ILA continues to be organized along traditional lines. It employs a small staff, which is chronically overextended, and other than by virtue of Professor Crawford's zeal, its governance may be said still to reflect an "Old Boy" spirit that elevates the enjoyment of good wine, food and conversation to a first principle of management. The gracious hospitality that invariably characterizes meetings in

London of the ILA Executive Committee, perforce, is seldom disrupted by the rude entry of new business.

The ILA's profitable tradition of concern for professional and national sensitivities also limits the opportunities available to American Branch members to link up with their counterparts in other branches. Regardless of the distribution of expertise in the subject of an ILA committee's work, for example, membership on each committee is limited to one member per branch. Members of the largest branches, accordingly, have far less likelihood of gaining a spot on an ILA committee in whose work they are professionally interested than do members of the smallest branches. A few of these minibranches appear to be maxifictitious, moreover, and the whole anachronistic scheme recalls Anatole France's observation that French law in its majesty forbids rich and poor alike from sleeping on park benches. Inasmuch as the ILA's biennial conferences are given over, in the main, to the work of the committees, active involvement in this aspect of the ILA's work is also limited, for practical purposes, to those who closely follow the development of drafts of committees' reports — which is to say, the committees' own members. It is no coincidence that attendance by American Branch members at the ILA's biennial conferences has fallen off in recent years.

The times, in any event, demand more opportunities for networking than the ILA as such is presently able to provide. National bar associations and learned societies have begun to expand their own activities beyond the borders of the United States. The larger the organization, of course, the more likely is the risk that significant participation in its activities will be affected by internal, academic, professional and national political consideration, compounded when two or more national professional associations seek to link arms. While we support, and many of us participate actively, in one or another of these initiatives, past practices suggest caution in anticipating too much from them, especially for the tangible benefit of younger practitioners and scholars for whom cost and time away from the office are decisive conditions of participation.

The Branch, on the other hand, enjoys a unique tradition of informality, flexibility, general sassiness and an avowed distaste for organizational politicking. It is no secret, nor ought it be, that many of us who now constitute the leadership of the Branch first became active in it out of frustration with what seemed like endless political maneuvering and favoritism in other international law organizations. We have absolutely no motivation, or plans, to allow these habits to creep into the ethos of the Branch.

The Branch's personality (if an organization can be said to have a personality) is reflected in changes we have been making in the past few months to the way in which the Branch operates. Starting with my own terms as President, for example, and defying the practice of other ILA branches, other than in exceptional circumstances the term of the American Branch presidency is now limited to one two-year stint. Because we have no paid staff, responsibility and decisional authority has tended to devolve directly upon the President. To counter this, we have begun a conscious effort to decentralize Branch decision-making. My delegation to the Co-Directors of Study of primary authority for managing and coordinating the work of Branch committees, and approving Branch member participation on ILA committees, illustrates this effort. So does the establishment recently of

a Finance Committee, chaired by P. Nicholas Kourides, a Vice President and erstwhile Honorary Secretary-Treasurer. Together with the Honorary Treasurer, the Finance Committee will help prepare budgets, estimate cash flow requirements, and supervise a more aggressive investment of Branch funds.

Having marched, under each of my predecessors, to the very frontiers of thrift (yea, infringing, at times, the territorial sovereignty of parsimony), the Branch has just enough cash in the bank to justify some big thinking — and to have begun to approach sources of big funding to implement our big thoughts. This, too, will almost certainly entail a measure of organizational decentralization, as will our commitment, reflected elsewhere in this Newsletter, to open membership on the Nominating Committee to Branch members who are not presently on the Executive Committee (as well as to those who are). More such changes lie just ahead.

Some initiative can be moved along without structural change or new funding. We are being encouraged by publishers, for instance, to reformat the best of our committee reports for publication in book form. We are actively investigating whether, and if so how, our proceedings can be preserved and rendered more useful. We are looking to expand, exponentially, the scope, format and global readership of *IPN*.

Because we employ no staff, we tend to be fast on our feet in responding to ideas, but ungainly in the management of work on paper — such as correspondence and the orderly retention of my files. In several recent issues of this Newsletter, Professor Cynthia Lichtenstein, my predecessor as Branch President, alluded to the limitations our lack of administrative staff imposes. She suggested that it might be desirable to establish administrative arrangements with another organization, notably the ASIL. Such arrangements would inevitably entail a loss of identity and autonomy for the Branch, however, and to be truthful about it, the ASIL's administrative resources are stretched to their limits as it is. In any event, there seems to be little enthusiasm in any quarter for closer administrative ties with the ASIL at this time. I have decided, therefore, not to move too aggressively on this matter.

Sooner than later, though, serious thought must be given to where and how — no longer whether — to establish a fixed place of business for the Branch, and to whether and how to staff it adequately enough to enable it to respond to or channel routine communications. I encourage you, one and all, to give me your views on this important step, as well as on other aspects of the Branch's future. Write or fax me directly, please. My home address is 2907 29th Street, N.W., Washington, D.C. 20008. My fax number there is (202) 328-7635. During the summer, I will be away from Washington as often as not; but I give you my word that I will personally read, think about and ultimately reply to every missive. I look forward to hearing from you.

BUENOS AIRES CONFERENCE

The President of the Argentine Branch, Mr. Ricardo Balestra, has accepted an invitation to attend this year's International Law Weekend. Members who attend should look

forward to this great opportunity to meet Mr. Balestra and learn more about the activities of the Argentine Branch as well as plans for the 66th ILA Conference being held in Buenos Aires August 14 to 20, 1994.

NEW ACTING TREASURER; DUES NOTICES

As many of you are aware, Jonathan Blackman has been interested in retiring from his position as Honorary Treasurer but has continued to serve in that capacity until a successor is found. The search has come to a successful end! At the upcoming meeting of the Executive Committee, the President will formally recommend the acceptance of Mr. Blackman's resignation and the appointment of Scott Horton, Esq., an erstwhile associate of Mr. Blackman and now a partner at the New York firm Patterson, Belknap, Webb & Tyler, to serve as Acting Treasurer until formal election at the next Annual Meeting of the Branch.

A graduate of the University of Texas Law School and the University of Maryland, Mr. Horton has written articles on legal history, U.S. human rights policy and the European Community. Mr. Horton has also studied at the universities of Munich and Mainz, Germany.

Included with this Newsletter is a copy of this year's membership renewal and dues notice. Members who are aware of other members who may have moved recently are kindly requested to forward any new address information they have to Mr. Horton at the address indicated in the dues notice (and on page 1 above). Address list maintenance is a tricky task given the peripatetic nature of many of our members. Your help is thus very much appreciated.

INTERNATIONAL PRACTITIONER'S NOTEBOOK

We are in the process of seeking new editors for *IPN* to replace David Scheffer, who has been appointed Senior Advisor and Counsel to U.S. Ambassador to the United Nations, the Honorable Madeleine Albright, and to replace Robert Bostrom, Esq., who recently moved in-house to National Westminster Bank in New York. Professor Ved Nanda of the University of Denver Law School will be editing the upcoming issue while the search continues for new editors. Members who are interested in becoming an *IPN* editor are encouraged to contact the President at the address listed above, or Prof. Nanda, c/o University of Denver College of Law, 1900 Olive Street, Denver, Colorado 80220, Tel: (302) 871-6276.

Members who are interested in contributing to *IPN* at this time can submit materials directly to Prof. Nanda, or to the Honorary Secretary at the address indicated on page 1 above.

AMERICAN BRANCH COMMITTEES

The Co-Directors of Study, Profs. Nafziger and Rubin, will be publishing a comprehensive report on the status of American Branch and International Committees (including names of Committee Chairs) in the next issue of *IPN*. We also have the following general committee news to report.

Professor Valerie Epps of Suffolk University School of Law and a Member of the Executive Committee is the new Chair of the American Branch Nominating Committee, on which she has been serving as a member. She replaces P. Nicholas Kourides, Esq., in such capacity. A new committee, the Finance Committee, will be chaired by Mr. Kourides. David Gill has also been asked to serve on the Finance Committee. The American Branch Committee on State Immunity has a new chair as well, Professor Joseph W. Dellapenna of Villanova University School of Law.

The Branch, the American Society of International Law and the International Section of the ABA have established a Joint Committee on Nominations to International Courts. Executive Committee Chair and former Branch President Cynthia C. Lichtenstein will be the Branch representative to the Joint Committee, which will be chaired by Charles N. Brower, Esq., also a member of the Executive Committee, and will include Professor Louis Henkin, President of the ASIL (and an Honorary President of the Branch). The U.S. Department of State, acting for the U.S. "National Group" pursuant to Article 6 of the Statute of the International Court of Justice, has requested the advice of the American Branch as to qualifications of international judicial candidates. As a result, the new Joint Committee's input could prove to be important to the selection of a judge to replace Justice Manfred Lachs of the International Court of Justice, who unfortunately passed away this January.

American Branch Members who are interested in serving on American Branch committees are encouraged to contact either Professor Gordon at the address on page 1 above or Professors Rubin and Nafziger.

LAW OF THE SEA RESOURCE MATERIALS

Professor Martin Glassner, chairman of the Department of Geography at Southern Connecticut State University, has requested the assistance of American Branch Members in adding to his research library on land-lockedness and the Law of the Sea. Prof. Glassner informs us that this collection (for which he has a bibliography) contains over 2500 items, including many unpublished documents and literature in 19 languages. In a recent letter to the Honorary Secretary, Prof. Glassner writes:

"I would be most grateful for anything that you have produced, acquired or encountered that relates in any way, even indirectly, to the access to the sea or uses of the sea of any or all land-locked countries, including such things as legal rights to participate in seabed mining, transit routes and facilities, customs documentation and procedures for in-transit goods, joint ventures for marine fisheries, transit traffic on rivers, and so on. The material may be in

any form, published or unpublished, in any language, of any date. If distribution is restricted in any way, I note that in my bibliography, store restricted materials separately from the main collection, and do not make them available to unauthorized persons. If it is not feasible to send the actual materials, I would like complete citations so I can try to locate the items myself. In all cases, titles in languages other than English should, if feasible, be translated into English. Naturally, I will be happy to reimburse you for any expenses you may incur for acquisition, photocopying and delivery of materials to me; just send me a bill and it will be paid promptly."

Prof. Glassner also stated that he makes his collection available to other scholars. All inquiries should be addressed directly to Prof. Martin Glassner, Southern Connecticut State University, 501 Crescent Street, New Haven, CT 06515, Tel: (203) 397-4350, Fax: (203) 397-4681.

NEWSLETTER CONTRIBUTIONS

Members interested in contributing to the Newsletter items of interest to the American Branch are encouraged to call or write to the Honorary Secretary at the address on page 1 above.

Nicolai J. Sarad
Honorary Secretary

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April 1993

MEMORANDUM TO MEMBERS OF THE AMERICAN BRANCH

RE: 1993 RENEWAL DUES

It is time to renew your membership in the American Branch. Please return the attached dues notice to me, together with a check in the amount of your dues.

We expect 1993 to be an interesting year for the American Branch. During the course of the year, members will receive the following publications:

1. *International Practitioner's Notebook*, published quarterly, which is continuing to expand its scope to cover more geographic areas and which has become a widely acclaimed publication within the international community; and

2. Newsletter (twice a year), containing notices, announcements and news informing members of the activities of the American Branch and offering members the opportunity to participate in other events.

There will of course also be International Law Weekend, scheduled for November 1993, which continues each year to attract a larger audience, and should include an interesting variety of programs and topics.

We hope that you will renew your membership in the American Branch and will continue to participate in activities of the American Branch. If you have any questions, comments or suggestions, please do not hesitate to call or write me.

Scott Horton
Acting Treasurer

