BOOK REVIEWS


In undertaking the writing of a book with this title, Messrs. Bayitch and Siqueiros faced up to some formidable built-in problems which they are the first to recognize. The usefulness of the book to the United States reader depends on his also seeing these problems and knowing how the authors have dealt with them.

In the first place, one has difficulty with the concept of one book about the conflict of laws rules of two countries, especially when one of the countries is the United States and the whole book, including appendix and indices, contains less than three hundred pages! Mr. Bayitch is plainly aware of this, and in his Foreword delimits the scope of the project: “The present study is descriptive rather than comparative, with emphasis on Mexican law while the discussion of the corresponding law in force in the United States is limited to situations related to Mexico and to some basic principles in order to facilitate understanding.”

In the second place, the United States reader who, like this reviewer, claims some familiarity with, but no profound knowledge of the civil law in general, including the Mexican law, finds that he gets out of the habit of thinking of civil law systems as having “conflict of laws” rules. At the academic level, civilians have “private international law,” which is a fairly arcane subject about which one writes learned treatises, citing other learned treatises about which other scholars have already written. At the practical level, civilians have statutory provisions dealing with jurisdiction of courts, choice of law and recognition of foreign-based rights, the three great branches of what we call conflict of laws. These provisions have a way of being either very specific, e.g., a negotiable instruments law or a highway code, and thus clear in meaning but applicable only in a limited sphere, or very general and likely couched in language so broad as to reveal large ambiguities in practice, e.g., the handful of articles commonly found in the introductory chapter of a civil code. And the trouble is that the academic level and the practical level—like the glossators and the medieval courts—seem to have very little contact with each other. Messrs. Bayitch and Siqueiros recognize this problem too:

Comparing interstate conflicts problems in Mexico with their counterpart in the United States, it is surprising to find that in spite of an almost identical constitutional setting this class of conflicts, both jurisdictional and choice-of-law, is in Mexico of little consequence. This may be explained not only by lack of awareness, in many instances, of the very existence of a conflict problem, but

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2 I have been told, only half in jest, that it is considered unethical in many parts of Texas to raise a conflict of laws issue.
but also by the fact that the substantive civil as well as procedural law in force in the several states is, in most situations, uniform because it is patterned after federal models. . . . Finally, it should be taken into account that in many areas of potential interstate conflicts, such as commerce, labor, transportation, natural resources and others, uniform, i.e., nationwide federal substantive law prevails.

The United States student will thus get the most good out of this book if he will think of it as (a) a book about Mexican law and (b) a book not about "Conflict of Laws" but about the Mexican rules and practice determining jurisdiction and competency of courts, choice of law and recognition of foreign-based rights. As such a book, it is first-rate.

The United States reader will also get an unadvertised bonus which may be of even more value to him than the study suggested by the title. The authors, partly out of the necessities imposed on them by their subject and partly from a scholarly thoroughness and a desire to make their book helpful, for which we can only be grateful, have given us a very detailed and comprehensive statement of the legal status of the foreigner in Mexico, especially that of a United States citizen. The many statutory and regulatory provisions they cite, and their discussion of them, give us as clear a picture as can be found anywhere of what his rights and duties are, what he can and cannot do and what remedies are open to him in time of trouble.

On both counts, then—as a scholarly study and as a practical handbook for the United States businessman in Mexico and his lawyer—the book deserves genuine praise.

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Kenneth W. Dam is a professor of law at the University of Chicago. Although still a relatively young man, he has established himself as one of the country’s leading scholars in the field of international economic organizations. This book is a major contribution to the study of such organizations and their problems. It is destined to become one of the standard reference works on the General Agreement on Tariffs and Trade (GATT) and to add measurably to the author’s already substantial reputation.

At the outset it should be noted that the book is conceived of, and is.

*S. Bayitch & J. Siqueiros, supra note 1, at 27.