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Book Notes

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Better Settlements Through Leverage. By Phillip J. Hermann. Rochester, N.Y.: Aqueduct Books, 1965. Pp. 269. $9.50.

This book is a readable and balanced discussion of fundamental tactics in negotiating personal injury settlements. Mr. Hermann illustrates each point from both plaintiff's and defendant's point of view, although his own viewpoint seems slightly favorable to the defendant. It ought not to be necessary to remind lawyers that better settlements result if they know the law in detail, know the facts intimately, and understand their opponents, but apparently many lawyers might beneficially bear reminding. Old-fashioned negotiators will differ with Mr. Hermann's view that settlement offers and demands ought to be sound rather than exaggerated, but Mr. Hermann's view is unquestionably the modern one. It is also remarkable that deliberate defensive delay is not a technique counseled by Mr. Hermann. Even many experienced lawyers may wish to re-think their negotiating techniques in light of Mr. Hermann's suggestions, and certainly the inexperienced will benefit from the book if it is read with common sense.

Dan B. Dobbs

Let's Talk Settlement. By Joseph and David Sindell. Cleveland, Ohio: Lawyers and Judges Publishing Company. 1965. Pp. 420. $15.00.

An extended recounting of personal experiences and practices, this book may induce mixed feelings. It contains a good deal of implied self-approbation that some will find offensive. All but the most dedicated plaintiff's attorneys will wince at the fanatic attacks on adjusters, though the authors do generously concede that not "*all* claim adjusters are . . . unethical sadists."[1] The book includes a miscellany of materials tied only tenuously to the theme of settlement: the reader is informed fully on mechanical office practices (*e.g.*, a special file folder called the Sindell Negligence Folio, which is offered for sale), he is exhorted to feel compassion for the injured, and he is

[1] SINDELL, LET'S TALK SETTLEMENT 48 (1965). (Emphasis added.)

doused with a cold dose of tips on getting and keeping clients—a dousing that may dampen any compassion he arouses. Sometimes trite, often repetitious, and always diffuse, this book is nevertheless a collection of experiences real and meaningful to the authors, and it will convey some useful information to the recent graduate. Perhaps experienced lawyers would benefit from a reading, but those likely to benefit probably do not read many books.

Dan B. Dobbs

Foreign Enterprises in Nigeria, Law and Policies. By Paul O. Proehl. Chapel Hill, N. C.: The University of North Carolina Press. 1965. Pp. xii, 250. $7.50.

The felicitous union of a Ford Foundation grant with the administrative genius of the American Society of International Law is producing five sibling legal studies of foreign enterprise, each by a different author. The first three, dealing with foreign enterprise in India, Colombia[1] and Nigeria, respectively, have been born; the other two dealing with Japan and Mexico, at this writing, remain *en ventra sa mere*. The author of the Nigerian study is Professor Proehl of the law faculty of the University of California at Los Angeles.

On October 1, 1963, fifty million Africans with an annual per capita income of 84 dollars received full sovereignty as the Federated Republic of Nigeria, within the British Commonwealth. To date the republic has survived three governmental crises: the effort of the Action Group in the Western Region to oust the then ruling coalition of Northerners and Easterners; a general strike which resulted in a general increase in wage levels; and the national election of December 30, 1964, which, accompanied by charges of irregularities, gave control for the next five years to the authoritarian North, to the acute discomfiture of the fragmentive coalition of liberal Southern parties, and particularly the oil-rich East. Commenting on the political scene, the author says: "Maintaining a fine balance between the control necessary to maintain national unity and the liberty that the natural diversity of Nigerian life requires is,

[1] For a review of FOREIGN ENTERPRISE IN COLUMBIA, LAWS AND POLICY, see Brandis, Book Review, 43 N.C.L. REV. 1030 (1965).

then, the most important task that Nigerian leadership has."[2] It appears that in Nigeria, in common with most new nations, the basic imponderable of political stability is a major depressant to foreign private investment.

However, the British preparation of Nigeria for independence was admirable. There is a well-trained domestic civil service and a well-developed legal system essentially based on the English common and statute law but giving due regard to local customary law in noncommercial matters. Substantial Nigerian political leadership and an active realization of the imperative need to intensify and broaden education at all levels are also assets.

Regarding the attitude toward foreign investment, the author says, "Nigerians view the foreign investor's role in Nigeria as a privileged, rather than an essential, one."[3] On the basic issue of the possibility of nationalization he quotes Sir Abubakar Tafawa Balewa. Sir Abubakar, in the Nigerian House of Representatives in 1964, said:

> It must be obvious that no Nigerian can be content so long as any major sector of the economy is controlled by foreigners. But we are realists and we say so long as there is a dearth of Nigerian capital, so long must there be an opportunity for foreign capital in Nigeria. We do not seek the withdrawal of foreign capital from any area of the economy before Nigerian enterprise is able to replace it. When the time for withdrawal has come, due notice will be given.[4]

Chapters are devoted to Economic Development, Nigerian Law, Entrepreneurship, Labor, Taxation, Land Tenure, Credit Transactions and Nationalization. For details the reader is referred to the text of this interesting addition to the *Foreign Enterprise* series.

Seymour W. Wurfel

La Responsabilidad por Abordaje Entre Buques Equipados con Radar (Responsibility for Collisions Between Ships Equipped with Radar) By Santiago Hernandez Yzal: Barcelona Spain: Publicaciones de la 'Catedra Consulado del Mar' bajo el Patrocinio de la Excma. Diputacion Provincial de Barcelona, Facultad de

[2] PROEHL, FOREIGN ENTERPRISE IN NIGERIA, LAWS AND POLICY 194 (1965).
[3] *Id.* at 9.
[4] *Id.* at 159.

Derecho de la Universidad de Barcelona (Publications of the Chair of Maritime Law, under the distinguished patronage of the Provincial Commission of Barcelona, Law Faculty of the University of Barcelona.) 1963. Pp. xxvi, 706.

This extensive Spanish volume, giving exhaustive consideration to the decisions of the domestic courts of the United States, Britain, Germany, Italy, Belgium and France, as well as Spain, relating to a technical aspect of maritime law, is indeed in the best historic tradition of the port city of Barcelona. The *Consulado del Mar,* which developed in the thirteenth century in original manuscript, was written in Catalan the language of Barcelona. Its authority in the medieval world was such that it was translated and published in both Venice and Amsterdam. It was the dominant maritime code of the western world for nearly five centuries.[1]

This book, the author's juris doctoral dissertation at the University of Barcelona, comports with this proud admiralty tradition. He is now a practicing lawyer in that maritime city. The volume deals not only with the legal problems but, in some depth, with the factual and scientific aspects of maritime employment of radar techniques. This work reflects Barcelona's sustained concern with the modern law of the sea.

In the small-world department it is interesting to note that the author cites with approval an article published in the North Carolina Law Review.[2]

In drastic oversimplification of Senor Hernandez's conclusions the following is submitted. He finds a transnational judicial tendency to reason that possession of radar equipment presupposes earlier and better knowledge of the circumstances and objective factors encountered by both vessels on a collision course, greater capacity to act on the part of the captain of the radar-equipped vessel, accordingly imputing to him knowledge of the danger, and hence liability.[3] However, national decisions are divergent and present international regulations do not specifically deal with the legal consequences arising from the use of radar equipment.[4] This lack was

[1] Wigmore, Panorama of the World's Legal Systems 885-91 (1936).

[2] At page 363 reference is made to Volk, Some Legal Aspects of Collision Between Radar Equipped Ships. 36 N.C.L. Rev. 30 (1957).

[3] Hernandez, Responsibility for Collisions Between Ships Equipped with Radar 663.

[4] *Id.* at 664.

noted in the proceedings of the London Conference of 1960 in relation to the use of radar to avoid maritime collisions.[5] Even though radar is only one aid to navigation, the legal effect of its use should be expressly covered by international convention as recommended by the 1960 London Conference of the International Maritime Committee.[6]

This scholarly work is directed to the admiralty lawyer. Its nonavailability other than in Spanish drastically reduces its accessability to most common-law lawyers. Nevertheless, the English speaking proctor in admiralty with ship-owning clients would be well advised to familiarize himself with this painstaking treatment of a vital segment of admiralty law.

Seymour W. Wurfel

[5] *Id.* at 660.
[6] *Id.* at 673.