1-1-1995

(Sesquicentennial) The North Carolina Journal of International Law and Commercial Regulation and International Course Offerings

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Jerry Markham is currently a member of the UNC law faculty and advisor to the North Carolina Journal of International Law and Commercial Regulation. Professor Markham is originally from Kentucky. He graduated from Western Kentucky University in 1969 and from the University of Kentucky College of Law (where he was editor-in-chief of the law review) in 1972. He subsequently completed an LL.M. at Georgetown University. He practiced as an attorney with the Securities and Exchange Commission, the Chicago Board Options Exchange, and the Commodity Futures Trading Commission. He was also an attorney and partner at the Washington, D.C. firm of Roers and Wells. He joined the UNC law faculty in 1991 and teaches corporate finance, business associations, international business transactions, and international litigation. He has written widely on commodities and securities regulation and has worked extensively with international business matters. He has been a lecturer in Montevideo, Uruguay and has visited at the University of Jean Moulin-III in Lyon, France. He has been instrumental in recent efforts to expand the University of North Carolina School of Law’s international curriculum.

INTRODUCTION

In recent years, one of the fastest-growing sectors in the curricula of American law schools has been international law. The University of North Carolina School of Law has long sought to keep pace with this growth, but only in recent years has the curriculum accorded full weight to this expanding area of the law.1 Nevertheless, the law

1. The late Professor Seymour W. Wurfel noted:
   During the nineteenth and most of the first half of the twentieth century
   the University of North Carolina School of Law could not have been
school's commitment to providing broad educational opportunities in the field of international law has been a longstanding one, as exemplified by the fact that the North Carolina Journal of International Law and Commercial Regulation is about to celebrate its twentieth anniversary.

INTERNATIONAL LAW COURSES

The law school's first public international law course was taught in 1945 by Professor John P. Dalzell, but international course offerings remained scarce for many years. In 1960, seminars were offered in international law and air law. The air law seminar was concerned with international as well as state and federal legal issues in civil and military aviation.

The international curriculum was expanded in 1963 with Professor Seymour W. Wurfel's seminar on international business transactions, which he later supplemented with a course in comparative law. Seminars on international institutions and the international law of war were added a few years later.

The 1970s saw the addition of a seminar on the European Economic Community and one on international business. The next decade witnessed further additions to the international curriculum in the form of seminars on the United Nations, international business and comparative law analysis of selected EEC member nations, and courses on admiralty, ocean law, and comparative constitutional law.

In recent years, course offerings at the law school have included international law, comparative law, international business transactions, international litigation, and seminars on the European Union and national security issues.

characterized as a hotbed, or even a lukewarm bed, of international legal activity. The faculty and students were fully occupied with domestic legal matters. With the end of World War II and the return of Henry P. Brandis to the law school from extensive naval officer service, this earlier orientation soon changed to include lively activity in matters international. During the dynamic fifteen years of the Brandis deanship there was a vigorous expansion of the international legal program.


2. Id. Professor Wurfel also noted that William B. Aycock, a member of the class of 1948, "[f]or forty years . . . has been an unassuming but vital force in developing the international legal program at the University of North Carolina." Id.

3. Professors Michael L. Corrado and Richard Rosen also will be team-teaching a seminar on Russian Law in the Spring of 1995. They will be assisted by Paul Varul, a
INTERNATIONAL SOCIETIES AND EXCHANGE PROGRAMS

The law school also has expressed its interest in international law in other forums. For example, it became a charter member of the Student International Law Societies, an organization sponsored by the American Society of International Law. The law school's chapter of the society "adopted the name of John J. Parker in honor of that distinguished North Carolina federal jurist, a true internationalist." The law school began participating in the Philip C. Jessup International Law Moot Court Competition in 1963. In its first year in that event, the law school's moot court team reached the finals in Washington, D.C. In 1984, the law school's team won the regional championship in the Jessup Competition, and in 1987 the School's team placed third in the national competition and won the Mid-Atlantic South Regional.

More recently, the law school has developed exchange programs with universities located abroad. A formal exchange agreement has been entered into with the Université Jean Moulin in Lyon, France. Two of the law school's professors, Joe Kalo and I, taught at the Université Jean Moulin in the spring semester of 1994, and the law school has exchanged students with Lyon since 1991 under this program.

The law school has entered into or is negotiating informal exchange agreements with other foreign universities, including the University of Manchester in the United Kingdom, the Katholieke Universiteit Nijmegen in the Netherlands, the Universidad de Costa Rica, and two universities in Mexico. The law school also sent a delegation to Russia in 1994 to explore liaisons with Russian law schools. Moreover, the law school is seeking to add resident guest lecturers from countries as diverse as Estonia and Eritrea. In 1993, the law school entered into a sister school relationship with the

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4. Wurfel, supra note 1, at v.
5. Id.
6. Id.
7. The members of this team were Stuart B. Dorsett, J. Daniel Fitz, Malcolm D. Griggs, Sherri Z. Rosenthal, and Lauren C. Stevens. The faculty advisor was A. Mark Weisburd. The 1986 Jessup team received an award for the best memorial in the Appalachian Region.
8. The members of this team were C. Mark Holt, Jacques S. Whitfield, Jennie M. Wilhelm, and Cindy York. Their coach was Janet M. Ceropski and the faculty advisor was A. Mark Weisburd.
University of Tartu, Estonia, through the American Bar Association Central and Eastern European Law Initiative program (CEELI). In 1994, UNC joined with the American Bar Association, fifteen other American law schools, and eight African law schools to establish the African Law Initiative, which is modeled on the successful CEELI program.

Foreign students from Russia, Australia, Israel, England, and other countries have attended or audited courses at the law school in recent years, and a number of individuals from abroad have visited or spoken at the law school. The school currently has a scholar in residence from Japan.

THE JOURNAL—ITS BEGINNINGS

For convincing proof of the law school's long-term commitment to providing educational opportunities in the field of international law one need look no further than the *North Carolina Journal of International Law and Commercial Regulation*. Founded in 1975, the *Journal* is now in its twentieth volume. Professor Seymour W. Wurfel, one of the *Journal*’s founding fathers, has told us that it was formed by a small group of students headed by Henry M. Burwell. Burwell prepared an elaborate proposal for the creation of the *Journal*. Among other things, he noted that there were approximately 110 foreign-owned businesses operating in North Carolina. He also stated:

As an extension of the University of North Carolina School of Law, the journal would serve two purposes. First, it would broaden the image of the school and the university by providing energetic and aggressive North Carolina attorneys and businessmen with a publication concerned with the practice of international law in the Southeast. Second, it would keep the law school in contact with the elements of the business and legal community which are forging ahead

9. Wurfel, *supra* note 1, at v-vi. The original document cites Mr. Burwell's middle initial as “C.” Since Mr. Burwell's actual middle initial is “M,” that initial will be used throughout this essay.


11. *Id.* at i.
in the expansion of international commercial transactions in North Carolina.\textsuperscript{12}

Burwell asserted that the Journal would offer a unique and broadening educational opportunity unavailable in a classroom. He stated that the Journal would allow participation in an organization in which students bear the responsibility for publication. He also believed that it would “provide an opportunity for more students to share the rewards derived from self-discipline and personal effort in a demanding and vigorous extracurricular activity.”\textsuperscript{13}

At the time of the Burwell proposal, “by careful count, there were precisely 18 such journals being published by American law schools. One school of thought was that this was more than the market could bear.”\textsuperscript{14} Professor Wurfel later noted that

[t]here were no funds, either appropriated or available, for this purpose, no office space in the Van Hecke-Wettach complex, no overwhelming student demand, and minimal interest on the part of the North Carolina bar. It would have been easy to say ‘No.’

After huddling with Messrs. Brandis, Dalzell, Aycock and Dean Robert Byrd, the answer given was ‘Yes.’\textsuperscript{15}

Professor Wurfel also recorded that “[t]he sympathetic administration found a cranny or two, a couple of ancient typewriters, a few spare dollars, and the Journal was in business with ‘Buzz’ Burwell as its first Editor-in-Chief.\textsuperscript{16} Professor and Librarian Mary Oliver expanded international legal materials, within budgetary limitations, in the library.”\textsuperscript{17}

**PUBLICATION BEGINS**

The first issue of the Journal was printed in a plain white wrapper.\textsuperscript{18} It was 107 pages in length and contained three articles, one

\begin{flushleft}
\textsuperscript{12} Id.
\textsuperscript{13} Id.
\textsuperscript{14} Wurfel, supra note 1, at vi.
\textsuperscript{15} Id.
\textsuperscript{16} Miriam M. Nisbet was the managing editor of the Journal's first volume. Eugene A. Reese, Jr., was the business editor; the articles editors were L. Holmes Eleazer, Jr., and John G. McCormick; the associate editors were M. Anderson Howell and John A. Swem; recent development editors were Dillon H. Coleman and Stephanie J. Grogan; and the research editor was John T. Kennedy. The staff was composed of Charles R. Allegrone, Laura A. Banks, David B. Hamilton, and Laura L. Yaeger.
\textsuperscript{17} Wurfel, supra note 1, at vi (footnote added).
\textsuperscript{18} The Journal has changed its stripes several times. Generally, it has maintained a blue and white motif. After the initial volume, blue seems to have dominated for some time, but in recent years white has made a comeback.
\end{flushleft}
note and a recent developments section. In an introduction to this first issue, Governor James E. Holshouser, Jr., noted that North Carolina was then ranked among the top thirteen states in export sales and fifth in agricultural exports. There also were more than 130 foreign firms operating in North Carolina, and the Governor pointed out that there were thousands of jobs in North Carolina created by export trade. The Governor welcomed the Journal, and asserted that it would provide a service needed by North Carolina.

The editor-in-chief of the second volume of the Journal, Miriam M. Nesbitt, expanded its length to more than 200 pages in two issues. The staff was increased to twenty-five, in addition to eight editors. The editor-in-chief of the third volume, Frederic H. Davis, continued this rapid growth as the Journal grew to almost 300 pages. That expansionary pace continued for some time. Indeed, Kathleen Ann O'Brien, the editor-in-chief of Volume Ten, saw her pages soar to over 750.

**FACULTY SUPPORT**

The first faculty advisors to the Journal were Seymour W. Wurfel, John P. Dalzell, and Jonathan A. Eddy. This lineup changed
after five years with the retirement of Professor Wurfel. A special issue of the Journal was then dedicated to "Colonel" Wurfel, who inspired the student enthusiasm necessary for the Journal's founding, who shepherded the original proposal through faculty approval, and who was the Journal’s principal advisor during its formative years.

To assure that Professor Wurfel’s contributions to the Journal would not be forgotten, an annual award was established in his name. The Seymour W. Wurfel award is awarded in April of each year to the third-year student who has, during his or her third year, best fulfilled the standard of service beyond the call of duty observed by Seymour W. Wurfel as the Journal’s first faculty advisor: unselfish dedication of time and spirit to the Journal, persistence in the face of discouragement and enthusiastic helpfulness to other staff members.

The first Seymour W. Wurfel Award was presented in 1978 to the Journal's articles editor, Kenneth F. Ledford.

In the period of transition that followed Professor Wurfel’s retirement, "Dean Kenneth Broun personally provided the guidance and support that assured the further development and expansion of the Journal." Faculty advisor changes also continued over the years. Amos D. Dawson III replaced Jonathan A. Eddy, and he in

23. Professor Wurfel had retired from the Army as a Colonel before joining the faculty of the law school. He had a deep and abiding interest in international legal issues. He published an extensive number of reviews of books dealing with international issues, and he produced a book entitled Foreign Enterprise in Colombia: Law and Policies that was published by the University of North Carolina Press. Professor Wurfel also studied at the Hague Academy of International Law and at the College of the City of London. William B. Aycock, Dedication, 3 N.C. J. INT’L L. & COM. REG. vii (1978).

24. Preface, 3 N.C. J. INT’L L. & COM. REG. iv, iv (1978). In a dedication in the special issue, Professor William B. Aycock noted that Professor Wurfel had also acted as faculty advisor to the John J. Parker International Law Society and to the Jessup International Moot Court Team. Aycock, supra note 23, at ix.

Professor Wurfel had advised his students that "[j]ust as a trial lawyer spends 75% of his time analyzing facts and only 25% analyzing law, so an international lawyer spends 75% of his time analyzing economic, political and social factors, and only 25% analyzing law." Preface, supra, at iv.


27. Wurfel, supra note 1, at vi.
turn was replaced by Thomas A. Graham. Then, with Volume Six, the sole faculty advisor became Kenneth Broun, dean of the law school, but he too was soon replaced by Arthur Mark Weisburd and Harry E. Groves. Professor Weisburd then assumed this role solely in 1982 and remained as the faculty advisor until 1993, when Professor Jerry W. Markham was appointed as his replacement.28

THE GROWTH COMMITTEE

The Journal initially recruited its staff solely through writing competitions, an "egalitarian policy."29 In 1986, however, the Journal's board of editors established a "Growth Committee" of five editors to reconsider that policy and other aspects of the Journal's operations. The Committee's assignment was to "prepare the Journal for the next decade."30 As a result of the Growth Committee's work, the Journal's Board of Editors approved a new selection process for members on the Journal staff. The Board agreed to extend offers for staff positions automatically to all second-year students in the top fifteen percent of their class. A fall writing competition was to be used to acquire an additional fifty percent of the staff. The Growth Committee also sought to increase the size of the Journal staff from twenty-five to approximately thirty-five.31

These procedures were subsequently implemented. Today, the top fifteen percent of the second- and third-year classes are invited to join the Journal staff. Membership may also be gained through a writing competition held each fall, and the winning note in that competition is published in the Journal. In 1993, nineteen students were selected to join the Journal from the writing competition and an equal number joined on the basis of their class standing.

The number of student editors was increased to thirteen as a result of the Growth Committee's report.32 The Growth Committee also noted that the Journal had "grown from a one-issue publication of 107 pages to a three-issue publication averaging 600 pages annually.

28. Professor Weisburd has taught public international law at the law school for many years and was in the Foreign Service before attending law school.
29. Wurfel, supra note 1, at vi.
31. Id.
32. There are now 14 student editors.
with subscribers in over fifteen countries." The size of the *Journal* continues to fluctuate in the range of 600 to 700-plus pages. In early 1994, the total number of subscribers to the *Journal* was 416. Those subscribers were located in forty-seven states, the District of Columbia, Guam, and nineteen foreign countries.

**JOURNAL MEMBERSHIP REQUIREMENTS**

In the first year on the *Journal*, a student staff member must write either a note or a comment of publishable quality, and must complete cite checking and other publication tasks that he is assigned. A senior staff member (a third-year student in her second year of *Journal* membership) must write a second note of publishable quality if she wrote a note (rather than a comment) during her first year. Similar requirements are imposed on members of the editorial board.

Academic credit is awarded to students who join the *Journal* during their second year and either remain as senior staff members or

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34. The Growth Committee's 1986 report also noted that the increased size of the *Journal* had required the purchase of a computer to replace its ancient typewriters. *Id.* Today, the student editors are assisted in their work by two computers, two laser printers, *Lexis* and *Westlaw* terminals (with printers) and a telexcopier. They also enjoy their own quarters in the basement of the law school, where the student editors have their own carrels and where the editor-in-chief has her own "private" office (which she often shares with one or two other editors).

35. A note is a piece that discusses the impact of a particular recent case, statute, regulation, or executive order upon the existing law. The case note, for example, usually includes a discussion of the facts of the case, the background law necessary for deciding the case, the significance of the decision, and a conclusion about the impact of the case. Such a discussion cannot be addressed adequately in less than 20 pages, double-spaced, including footnotes or endnotes.

36. A comment is a much more comprehensive exploration of the law, usually examining in detail the interrelationship of several statutes and cases within a particular field. A comment often examines policy concerns arising from the interplay among laws. Such a comprehensive study typically requires a minimum of 100 triple-spaced pages of writing, including footnotes or endnotes.

37. "Publishable quality" is the standard that all student pieces must meet to be recognized for academic or honors credit. The determination of whether a piece is publishable is made by the editor-in-chief, in conjunction with the faculty advisor. Factors considered include the quality and clarity of writing, the substance of analysis, the structure of the paper, the level of research, and quality of footnoting and bluebooking style.

38. Membership on the *Journal* is officially conferred once the student has completed all writing, research, and production assignments given during the academic year.

39. If the student wrote a comment during the second year, no further writing requirement is imposed. Senior staff must also complete cite-checking and other assignments.
serve as members of the board of editors during their third year. Board members receive three credits toward fulfilling the requirements for the J.D. degree and senior staff members receive two credits. Journal staff members may also meet honors requirements through their membership on the Journal. To do so, in addition to attaining a certain grade point average, a student must complete either two publishable-quality notes or one publishable-quality comment.

REPRINTS AND AWARDS

In 1980, the publication Lawyer's Brief awarded the Journal its Most Useful Article award for a publication on the drafting of international sales contracts. Articles from the Journal regularly have been included in the International Lawyer, which is published by the American Bar Association. Articles from the Journal also have been reprinted in Germany and Australia, as well as on the EASI Access Program which allows electronic access to sources of international and commercial law. The Journal now is available on Westlaw and LEXIS as well. Other reprints from the Journal have been included in a leading casebook and other texts and periodicals.

BAR ASSOCIATION INVOLVEMENT

The Journal has long sought to involve the North Carolina Bar in its publications and activities. In 1976, "several editors of the Journal and members of the John J. Parker Society of International Law decided that one way to provide North Carolina attorneys an opportunity to learn about some of the specialized legal problems involved in exporting would be to sponsor a conference." Thus began the Annual Southeastern Conference on International Law and Commercial Regulation. The first such con-

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42. In 1993, the Journal entered into a contract with Fred B. Rothman & Co. to handle the sale of back issues. That firm will reprint any issues out of print, and it will make the Journal available on microfilm early in 1995.
44. Professor Wurfel noted:

A Conference Steering Committee, which included representation from the North Carolina bar, was established, and the practice of publishing the proceedings of this Conference in the Journal commenced. Speakers for this Annual Conference have been drawn from the international bar, nationwide. The impetus for this
ference was held on October 27, 1978, at the Morehead Building on the main campus and was attended by approximately 100 persons.45 The conference, appropriately entitled "Drafting an International Sales Contract: Problems and Remedies," was designed to introduce some of the basic legal problems an attorney confronts when his or her client decides to market a product abroad. In addition, several specific problems were explored more extensively.46

These conferences were held for several years on a number of topics and they were often published in the Journal.47 Conference topics were developed by steering committees composed of North Carolina attorneys and business people.48 In addition to the con-
ference on the drafting of international sales contracts, conferences were held on the antitrust aspects of international transactions, a practitioner's guide to international business ventures, advising the foreign client, current developments in international law, and international aspects of computer law.49

Symposia on a number of topics were also published by the Journal, and the authors frequently included members of the North Carolina bar, government officials, and a broad array of other individuals interested in international law issues. The topics of these symposia have included international arbitration, banking and foreign investment, political restraints on East-West trade, trade with Arab nations, Canada, and the Caribbean, a practitioner's guide to international trade law, relations with Canada and Mexico, grey market imports, international trade and finance, and the Omnibus Trade and Competitiveness Act of 1988.50

SOCIAL OCCASIONS

Finally, it should be noted that the Journal has not ignored its social obligations to students and faculty. The Journal holds an International Beer Tasting Mixer with the faculty and a Chili Cookoff after the new board of editors is elected each year. The Journal's board of editors also sponsors welcoming parties for the staff each fall, and last year it co-sponsored a mixer with the board and staff of the North Carolina Law Review.

CONCLUSION

As the Journal approaches its twentieth anniversary, it can reflect with pride on what its student editors and staff have accomplished. The Journal is by any measure a sophisticated and valuable research source for those practicing international private law. It has also provided students at the law school with an opportunity to improve their writing and editing skills, as well as to contribute to this important and growing area of the law.

49. Unfortunately, these annual conferences eventually proved to be too expensive and were discontinued.

50. Among the contributors to these proceedings were Joel Davidow, Director, Policy Planning, Antitrust Division, United States Department of Justice; Donald E. deKieffer, General Counsel, United States Trade Representative; Linda F. Potts, Deputy Director, United States Office of Policy, International Trade Administration, Department of Commerce; and several international attorneys.