

## BOOK REVIEWS

**EQUITY AND THE LAW OF TRUSTS.** By Philip H. Pettit. London: Butterworth & Co. (Canada) Ltd. 1966. Pp. cxx and 491. \$18.75.

This book is a simplified exposition of the principles of Equity and the law relating to trusts. The author has excised a lot of material normally associated with these topics, and the only question to be resolved is whether too much has been deleted. This will depend on the function the book is intended to serve. The author states that the book is ". . . primarily intended for law students", and it is certainly sufficient for that purpose. Indeed, Mr. Pettit must be applauded for his decision to omit certain chapters usually found in a book on Equity. Thus he refrains from treating separately and in detail the maxims of Equity. However, the reader loses nothing for where the omitted topic is relevant it is shortly discussed. Thus, on page 340, it is demonstrated how the doctrine, "he who comes to Equity must come with clean hands" may, if unfulfilled, impede the grant of an injunction.

Apart from the exclusion of mortgages and priorities, restrictive covenants and administration of assets, the coverage of the book is just what one might expect. There is a very useful section principally devoted to the history of the trust, and this is concluded with a short description of the modern purposes to which the trust may be put. Then follows a good, concise distinction between trusts and other legal relationships. Furthermore, the problems which may result from matrimonial property are very capably dealt with, and the latest cases are used to illustrate the points made.

The text of this book has in it more in the way of example and illustration than is usual in a work of this sort. It fills in the gaps between the pontifical pronouncements of its competitor, Snell.

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**THE RIVER BASIN IN HISTORY AND LAW.** By L. A. Teclaff. The Hague: Martinus Nijhoff. 1967. Pp. xxiv and 228. 29.50 guilders.

"A river basin is commonly defined as the area of land drained by a river and its tributaries."<sup>1</sup> Because a river basin is very often not all in one State, international co-operation is necessary to develop fully the potential uses of the basin—as a source of power, irrigation and transportation. Teclaff examines the use of river basins from antiquity to the present time. It is a story of co-operation.

States have found that greater mutual benefit is to be had from co-operation rather than from the individual exercise of sovereignty. The

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<sup>1</sup> Teclaff, *The River Basin in History and Law* 7 (1967) relying on Moore, *A Dictionary of Geography* (1958) and Webster, *New International Dictionary* (1961).

trend has been two-fold. In the first place, more and more the co-operation is encompassing all the uses of the river. There is no separate plan for its use in irrigation and another for its use for navigation. Multi-purpose development is becoming the rule rather than the exception. In the second place, co-operation is being extended over whole river basins rather than being applied only to segments of them. The greatest mutual benefit results from basin-wide development of all the uses of the river.

In his book, *Rivers in International Law*,<sup>2</sup> F. J. Berber examines four alternative principles suggested as governing the use of water by riparians on rivers which flow through more than one state. Publicists have argued that these are rules of customary international law, law which applies though there is no express agreement between the States concerned. They are:

- (a) The principle of absolute territorial sovereignty. According to this principle, riparian States are free to dispose of the waters flowing through their territory. On the other hand, a State has no right to demand a continued free flow of the waters from others.<sup>3</sup>
- (b) The principle of absolute territorial integrity. According to this principle, riparian States have the right to the free flow of the waters from others. On the other hand, there is no right to restrict the natural flow through the State to others.<sup>4</sup>
- (c) The principle of community in the waters. This means that the rights in the waters are vested in the riparians either collectively or proportionately. No one State can dispose of the waters without the positive cooperation of the others.<sup>5</sup>
- (d) The principle of some restriction of the free usage of the waters which does not extend as far as community of waters but does restrict absolute territorial sovereignty as well as absolute territorial integrity.<sup>6</sup>

Berber's conclusion is that, under international customary law, there is no restriction on the free exercise of a riparian's sovereign right to use the waters as it wishes.<sup>7</sup> Teclaff does not suggest that the law is otherwise. He does suggest that proper utilization and maximum benefit will result only from consensual arrangements for basin-wide development of all potential uses of the river. The physical unity of the river basin imposes on us the need for a corresponding legal and economic unity.

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<sup>2</sup> Berber, *Rivers in International Law* (1959).

<sup>3</sup> *Id.*, at 14-19.

<sup>4</sup> *Id.*, at 19-22.

<sup>5</sup> *Id.*, at 22-25.

<sup>6</sup> *Id.*, at 25-40.

<sup>7</sup> *Id.*, at 259-262.

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