

T.R.A.A. ASSOCIATION

INSTITUTE FOR INTERNATIONAL AND FOREIGN TRADE LAW
GEORGETOWN UNIVERSITY

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Frankfurt/Main, June 24, 1968

Dr. Wilhelm Schulte zur Hausen
433 Mülheim / Ruhr
Kampstraße 87

Dear Dr. Schulte zur Hausen:

A comprehensive report on the development of the Institute for International and Foreign Trade Law in Washington (hereafter called the Institute) has been promised to you, our honored patron and member of the Board of Directors. This report will allow you the opportunity to obtain a complete prospective of each phase of the Institute's development and to see how your generous contributions have been used.

This report also will assist us in our present negotiations concerning the founding of an association of our German friends and benefactors which in cooperation with our American friends and benefactors will assure the necessary means to continue the work of the Institute in the future. In addition, this review will bring some justification for the great honor which you together with Franz Böhm and Professor Kurt Bledenkopf, President of Bochum University, plan to extend to our Institutes on July 5, 1968.

The purposes for which your contributions begun first in 1954 have been and are used together with the smaller grants from Georgetown University and other contributions which were placed at the disposal of the Frankfurt Institute and which form the basis for the carrying on of our work can best be described in the following manner. In the post-war period, in order to find solutions for the manyfaceted problems of American-European relationships, we wanted to establish an Institute for cooperative work and reception of Europeans and Americans. A place was to be found where Americans from the United States universities, business and law could meet young Europeans, in particular Germans and Swiss. A similar

I. The Exchange Program

Between 1955 and today, 63 German and Swiss professors and assistants spent various amounts of time, on the average 10 months, in our Institute in Washington (Exhibit 1). These included 10 Habilitanden who generally completed their thesis in Washington (9 Germans and one Swiss).

The above mentioned number embraces not only those persons who were sponsored entirely by your grant, but also those who were financed by the Volkswagen grant or from the German Research Organization, the DAAD or the Cusanus-Corporation. All were members of the Institute. It seems justified to include the full number of assistants and professors here since it was first the Institute and then the other grants which made possible the activities of these gentlemen.

The majority of exchange people were financed alone through the Schulte zur Hausen donations. It is interesting to note that 25 persons from the Frankfurt University or from the Frankfurt Institute were directly connected during their stay in Washington with activities of the Institute. Even though we did not wish to limit the exchange program to Frankfurt, it was always accepted that Frankfurt would receive a significant number of exchange people.

Between 1955 and today, 30 American men and women went to Germany and Switzerland (Exhibit 2). By far the largest number of these, 26 in all, were at the Frankfurt Institute while the others went to Heidelberg or Geneva.

The fellows in America are paid \$ 375 per month for 10 months in addition to travel expenses to the extent that such costs were not in individual cases met from other sources. During the same period of time, the American fellows in Germany received DM 1.000 (those married for two years DM 1.200) plus travel expenses. (In comparison, Fulbright fellows receive only about \$ 200 per month.)

For those ladies and gentlemen who in the described manner were members of our or another Institute, we made it possible for 23 students to attend Georgetown University College for one year.

II. Scientific Achievements

The scientific performance of an Institute which is a meeting place for American and European legal culture cannot be judged entirely by its individual projects, publications and conferences. More important are the hardly measurable consequences, in particular the spirit of cooperation and the ability obtained through practical experiences to understand conflicts of interest which follow from the exchange of ideas and work of the individual fellows. Still, the direct scholarly achievements are astonishing.

1. Publications of Exchange Fellows

The following scientific works of European jurists, who already as university students or teachers took part in our exchange program, have been written in great part in Washington or there prepared:

- Biedenkopf: *Unternehmer und Gewerkschaft im Recht der Vereinigten Staaten* (1961);
von Caemmerer: *The Influence of the Law of International Trade and the Development and Character of the Commercial Law in the Civil Law Countries*, in: *Sources of the Law of International Trade* (1964),
- *Bankgarantien im Außenhandel*, Festschrift für O. Riese (1964);
Coing: *English Equity and the Denunciatio Evangelica of the Canon Law*, *Law Quarterly Review* 71 (1955), 223;
Erlar: *Mittelalterliche Rechtsgutachten zur Mainzer Stiftsfehde* (1964);
Fikentscher: *Gedanken zu einer rechtsvergleichenden Methodenlehre*, in: *Recht im Wandel*, Festschrift für den Heymanns-Verlag (1965);
Götz: *Das Recht der Wirtschaftssubventionen* (1966);
Kaufmann, E.: *Aequitatis Judicium* (1959);
Kaufmann, H.: *Causa debendi und causa petendi bei Glanvil sowie im römischen und kanonischen Recht seiner Zeit*, in: *Traditio* 1961;
Mestmäcker: *Verwaltung, Konzerngewalt und Rechte der Aktionäre* (1958).

The following degree candidates whose work is not yet completed or whose professorial requirements have not been entirely met have prepared the comparative law sections of their thesis in Washington:

- Gentinetta: *Über Probleme der internationalen Schiedsgerichtsbarkeit in Zivil- und Handelsachen*;
Nicklisch: *Über Probleme der Vereins- und Verbandsautonomie*;
Rehbinder: *Über "Konzernaußenrecht und allgemeines Privatrecht"* (will be published soon);
Steinberger: *Über GATT und die regionalen Wirtschaftszusammenschlüsse*.

Through the exchange program, a total of 28 German and Swiss fellows have prepared their dissertations in Washington. The following have been published:
Auer, Die richterliche Korrektur von Standardverträgen (1964);
von Rottenburg, Inhaberaktien und Namensaktien im deutschen und amerikanischen Recht (1967);
Schwartz, Ivo: Deutsches Internationales Kartellrecht (1962).

After the Law School of Georgetown University recognized foreign studies as part of a Masters-Program, ten American fellows have worked on their Master's thesis in Europe. Many of these were before their stay in Europe active as assistants in Washington while working on a Master's Degree program and were able not only to study the special problems of their thesis, but as well to take part in the general research activities of the Institute.

2. Lecturers

Since 1955, the Institute regularly received prominent visitors and exchange professors who gave lectures at Georgetown University (Main Campus) concerning the problems of the Federal Republic of Germany and Europe. Among them recently were Professor Dr. Helmut Coing, the President of the Government Cartel Bureau - Dr. Eberhard Günther, a member of the EEC Commission - Hans van der Groeben and the President of the EEC - Professor Dr. Walter Hallstein (Exhibit 3a).

In addition thereto, within the scope of seminars regularly held by me for members of the Institute and students of the Georgetown Law School, a good number of American speakers presented talks which afforded their listeners a deeper look into the American economy and jurisprudence. Included among them in the last years were Dr. Hans Aufricht, Counselor of the International Monetary Fund, Dr. Willard Mueller, Chief economist of the Federal Trade Commission, attorney Arved Deringer and Judge Burger of the U.S. District Court of Appeals for the District of Columbia. (Exhibit 3b)

Finally, the Institute has sponsored a number of luncheons to which prominent speakers were invited including Professor Dr. Otto Donner, Executive Director of the World Bank, Professor Dr. Kurt Bledenkopf, Rector of the Bochum University, Gerald Pollack, Deputy Assistant Secretary of Commerce and P. Verloren van Themaat, Director of the Common Market Commission. They spoke on actual problems of European-American relations (Exhibit 3c).

3. Conferences

The Institute has since 1960 sponsored or participated in many conferences where-
at problems of American-European trade relations were considered:

Internationale Kartellrechtskonferenz, Frankfurt/Main 1960 (gemeinsam mit dem
Frankfurter Institut)

Conference on Extraterritorial Effects of Trade Regulation, Washington 1962:

Conference on the Proposed European Trademark Convention, Washington 1962
(together with Federal Bar Association)

Kolloquium über das EWG-Kartellrecht (Vorbereitung der Durchführungsverordnungen
zu den Art. 85 und 86 des EWG-Vertrages), Frankfurt 1962

Briefing Conference on Tariffs and other Barriers to European-American Trade,
Washington 1963 (together with Federal Bar Association)

Briefing Conference on Industrial Property Protection, Antitrust Laws, and the
European Community, Washington and Philadelphia 1963 (together with Federal
Bar Association and Villanova University)

Presently a conference on the difficulties of subsidiaries of American corporations
in Europe is being prepared. This conference will take place in Washington in
September.

4. OECD-Study

On March 25, 1965, the OECD, Sub-Committee on Restrictive Business Practices,
instructed the Frankfurt Institute in cooperation with its sister Institute in Washington
to undertake research on the adverse effects of specific restrictive business practices
on international trade. During the two and one-half year research project, numerous
reports on various sectors of the assigned topic were submitted to the OECD Committee.
The research was ended on February 1, 1968 with a final report based on the previously
prepared sector reports. In view of the relative limited means which was placed at
our disposal for this project, the close cooperation between the two Institutes made
possible an effective research activity. Because the Washington Institute had the
organizational means to undertake a research program of this nature, it was possible
to complete a significant portion of the work there under the direction of an assistant,
Dr. Peter Eigen, who is now a member of the legal staff of the World Bank.

Eugene Rostow, Undersecretary of State, labeled the final OECD report as the
most important contribution in recent years in the area of private restrictions of
international trade.

5. Individual Publications

These other works should not remain uncited which I myself (or together with another author) have completed in Washington:

Coing/Kronstein, Die nennwertlose Aktie als Rechtsproblem, 1. Aufl. (1959), 2. Aufl. (1962);

Kronstein/Claussen, Publizität und Gewinnverteilung im neuen Aktienrecht (1960);

Kronstein, Publizität außerhalb der Aktiengesellschaft, Betriebsberater 1964, 1055;

Kronstein/Miller/Dommer, Major American Antitrust Law, 3rd edition (1965);

Kronstein, Das Recht der Internationalen Kartelle (1967).

By reason of the second above mentioned book, I was brought into the discussion on disclosure problems in stock corporation reform and gave expert testimony before a government committee on stock valuation methods used in American law. I might add that Professor Dr. Ernst Gessler, stated in a speech to the Frankfurt Juristische Gesellschaft his conviction that without my testimony and my stand for reform, the finally arrived at compromise with regard to the corporation statute would not have been possible.

It should also be mentioned that the Institute (through the loan of books and most of all through advice given by the American assistants and European fellows) gives its assistance to numerous Americans who are concerned with European legal problems. This activity belongs also to the achievements of our Institute.

6. The Future Plans of the Institute

The future plans of the Institute will be based on the achievements made to date. In any case, we want to maintain the exchange program if not to extend it. In the area of research, the problems of American subsidiaries in Europe concern us the most. For more details, please see our application to the Ford Foundation and to the National Science Foundation which have already been forwarded to you.

Everything possible will be done to obtain for the Institute a broader financial backing. The financial basis is to come not only from Europeans, but as well from Americans whose participation will match that of their European counterparts. By this method, the Institute will receive a more international image than it previously has had. Negotiations are now taking place with several large American corporations aside from the Foundations already mentioned.

III. Organization of the Institute

It has earlier been mentioned that the Institute received a Charter (in force 7-1-65) in 1964 from the University of Georgetown granting autonomy from the Law Center. In September, the Executive Board will meet to decide on the budget and research activities for the coming year. The Executive Board members include:

Professor Dr. Günther Jaenicke, Institute Frankfurt
Professor Dr. Kurt Biedenkopf, Ruhr-Universität Bochum
Kurt H. Grunebaum, New York Hanseatic Corp.
William D. Rogers, Arnold & Porter, Washington
Milton V. Freeman, Arnold & Porter, Washington
Professor Corwin D. Edwards, University of Oregon, Eugene
Rev. Paul P. Harbrecht, S.J., University of Detroit, Detroit
Professor Dr. Otto Donner, Washington
Professor John T. Miller, Jr., Washington
Professor Edwin J. Bradley, Georgetown University Law Center, Washington
Dean Paul R. Dean, Georgetown University Law Center, Washington

Any members of the Board who cannot personally attend the annual Board meeting receives all the important materials and gives his consent to the Board resolutions in writing.

It has been deemed important that you as well as Biedenkopf and Jaenicke are members of the Executive Board so that in this position you can make decisions concerning the budget and exercise control over the Institute activities. Thereby, the German members have not only a strong position within the Institute, but as well an assurance that the work of both Institutes is coordinated and that all participants remain informed.

Within the Executive Board, there is a Steering Committee consisting of Kurt Biedenkopf, William D. Rogers and Rev. Paul Harbrecht. This committee is necessary in order to guarantee an administration of the Institute during that period when it changes directors which before long will take place.

Under the Steering Committee are the Director and both Executive Directors, J.T. Miller, Jr. and E.J. Bradley.

With reference to our efforts to place the Institute on a more sound financial basis, it appears particularly purposeful at this time to show exactly how the funds which you placed at our disposal have been administered. There is probably no other organization in which the funds have been so scrupulously administered according to the

conditions of the grant. And there are surely few Institutes which have succeeded in holding down management and administration costs to such a low figure as ours.

The fund received from you and from your friends have been transferred to the Frankfurt Institute. From Frankfurt, they are then transferred to the law firm of Arnold & Porter, fiduciaries of the Institute. This firm pays the money to the treasury of Georgetown University (Vice President Rev. Brian McGrath) into a special account set up for the Institute. The University Treasury makes only those payments which correspond to a determined item in the Institute's budget. The book-keeping department of the University Treasury then prepares statements for fixed periods of time which show exactly the condition of the Institute account including which funds have been paid out and for which purposes.

The Directors of the Institute receive for their activity only a very small remuneration. In particular, I would like to point out that the amount paid to me is less than today's beginning salary of a young lawyer and in addition I myself pay all my travel expenses. The same is true for the salary of Mrs. Weyersberg (Administrative Assistant) who is not only an excellent secretary but who also takes care of the personal affairs of the European fellows. The amount paid to the American assistants is also very low. That we are at all able to obtain American assistants for this low pay is due to the fact that they are thereby able to continue their education to the level of Master's Degree and later, most of them go to Germany as an exchange fellow. In comparison with other Universities, Georgetown University demands only a small fee for the administration of our account and other administration costs. A close look at the budget details shows clearly how small our costs are aside from payments made to the Institute's fellows.

IV. The Annual Report

The annual reports are drawn up in Washington as well as in Frankfurt. Until the granting of the Charter, the necessary fellowship amounts were transferred to Frankfurt and from there to Washington. You received a report on the amounts used for fellowships then at the end of the year. The overhead costs were mostly paid from the Ford Foundation grant and accounts were sent to it. Later the Ford Foundation grant expired.

After the granting of the Charter and the ending of the Ford grant, it was necessary to transfer to the Washington Institute certain funds beyond those needed for the fellowships. These amounts were sent by way of Frankfurt to Arnold & Porter in Washington. Additionally, Arnold & Porter received amounts for the research undertaken in connection with the OECD project which were charged to the OECD.

A detailed report of the funds from your grant which were used to meet fellowship and travel costs is sent to you at the end of each year. In order to give you a broader survey, the accounts for these cost during the last ~~three~~ years have been hereto attached (Exhibit 4a).

The accounting procedure in Washington is such that the University Treasury to which Arnold & Porter make payments sends to the Institute a monthly statement. These statements are always at your disposal as a member of the Board of Executives. For your convenience, the accounts for the last three fiscal years and the budget for 1967/68 are also found among the exhibits (Exhibit 4b). The budgets for earlier years are already in your possession. If so desired, the Institute will once again send to you these budgets. In comparison with Frankfurt, please note that the fiscal year of the Washington Institute is from July 1 to June 30 of the following calendar year.

We hope that you will not only be satisfied with the success of your donations, but that also these results will motivate other friends and benefactors of the Institute to assure for the future the continuance of our work.

Sincerely yours,

Heinrich Kronstein

Copies: Jean Jean
Bradley
Miller
Fr. Harkbrecht
Edwards
Rogers
Freeman
H. McGrath
Dean Fisher