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Conflict of Laws -- Operation of American Laws Outside the Territorial United States as Established by Judicial Declaration

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NOTES

Conflict of Laws

OPERATION OF AMERICAN LAWS OUTSIDE THE TERRITORIAL UNITED STATES AS ESTABLISHED BY JUDICIAL DECLARATION

Introduction

The ancient notion[1] that a sovereign's power extended to his subjects no matter where they traveled is retained in the concept of personal jurisdiction.[2] Less apparent are vestiges of the once contemporaneous idea[3] that the substantive laws of the sovereign also followed the citizen. Thus, while the courts of a nation may readily exert jurisdiction over the person of a citizen, they less often choose to take jurisdiction over the subject matter or to apply that nation's law to the merits of the controversy.

Although as a matter of power, the nation of citizenship may extra-territorially apply its law to its citizens,[4] it is commonplace to say that a party's rights and obligations will be adjudicated according to the law of the place where the acts occurred. The policy supporting this rule was stated by Mr. Justice Holmes in *American Banana Co. v. United Fruit Co.*:[5]

> For another jurisdiction, if it should happen to lay hold of the actor, to treat him according to its own notions rather than those of the place where he did the acts, not only would be unjust, but would be an interference with the authority of another sovereign, contrary to the comity of nations, which the other state concerned justly might resent.

But the rule of *lex loci delicti* does not exclusively control. Substantive American laws do operate outside the territorial United States; and there are several means by which the laws are given this effect.

Laws may operate extraterritorially by reason of a bilateral understanding, established by express agreement, *viz.*, by treaty,[6] or by comity.[7] The United States Supreme Court, in *Hilton v. Guyot*,[8] gave effect to a French judgment that American citizens owed money to a French firm, stating:

> No law has any effect, of its own force, beyond the limits of the sovereignty from which its authority is derived. The extent to which the law of one nation, as put in force within its territory, whether by executive order, by legislative act, or by judicial decree, shall be allowed to operate within the dominion of another nation, depends upon what our greatest jurists have been content to call the 'comity of nations.'

1 Liu, *Extraterritoriality: Its Rise and Its Decline*, in 118 STUDIES IN HISTORY, ECONOMICS AND PUBLIC LAW 23 (1925); Kassan, *Extraterritorial Jurisdiction in the Ancient World*, 29 AM. J. INT'L L. 237, 240 (1935).

2 Blackmer v. United States, 284 U.S. 421, 436-37 (1932); *cf.* McDonald v. Mabee, 243 U.S. 90 (1917).

3 See III ENCYC. SOC. SCI. 213 (1930); Liu, *op. cit. supra* note 1, at 27-29.

4 Steele v. Bulova Watch Co., 344 U.S. 280, 282 (1952).

5 213 U.S. 347, 356 (1909).

6 9 STAT. 276 (1848). See also Liu, *op. cit. supra* note 1, at 91-94.

7 Hilton v. Guyot, 159 U.S. 113 (1895).

8 *Id.* at 163.

This statement by the Court, although it does not refer to treaties, demonstrates a reciprocal relation between the nations involved. But to the extent that it does not otherwise contemplate the force of law outside the territorial boundaries of a political unit, it is too narrow a delineation.

Laws may be given extraterritorial operation by unilateral legislative action. The legislature may give effect to laws or decrees of another nation,[9] or, on the other hand, extend, by specific provision, the operation of local law outside the territorial boundaries.[10] But in the latter situation, the statute may not clearly express whether the law is to operate extraterritorially, and it is for the courts to determine whether the legislature intended the law to be given such effect. The judicial declaration that a law does so operate does not depend upon comity, or treaty, or any form of bilateral relationship. Indeed, this situation represents quite the opposite; whereas the courts of this country have evidenced a bilateral relationship by giving effect to foreign judgments and legislation, there is no bilateral relation where they extend, by interpretation, the operation of American laws to foreign nations. This should be immediately obvious in a situation where the cause of action arises between Americans, is litigated in an American court, but the act giving rise to the cause of action occurs outside the United States.[11] The federal courts could, without reference to comity, declare that a statute passed by Congress has legal effects on litigants' acts committed outside the United States.

The policies which govern determination of the extraterritoriality of local law are not well articulated. The reasons for keeping the "sovereignty" of foreign nations inviolate seem clear.[12] On the other hand, insofar as the extraterritorial operation of a statute is a matter of interpretation,[13] it is not altogether clear what the considerations are which favor extension. Probable considerations include vindication of the home sovereign's power over its citizens,[14] the imposition of social responsibility,[15] and the prevention of unfair trade practices where other Americans may be injured.[16]

The importance of the relationship which judicial interpretation bears to extraterritoriality is present in the statutes which deal with private and governmental activity outside the forty-eight states.[17]

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9 CAL. PEN. CODE ANN. § 793 (West 1956). See Coumas v. Superior Court, 31 Cal.2d 682, 192 P.2d 449, 450 (1948).

10 Steele v. Bulova Watch Co., 344 U.S. 280, 282 (1952); *accord,* Canada Southern Ry. Co. v. Gebhard, 109 U.S. 527, 537 (1883); Doyle v. French Telegraph Cable Co., 244 App. Div. 586, 280 N.Y. Supp. 281 (1935).

11 See Sanib Corp. v. United Fruit Co., 135 F. Supp. 764 (S.D.N.Y. 1955).

12 See note 5 *supra;* The Schooner Exchange v. McFaddon, 11 U.S. (7 Cranch) 116, 135, 136 (1812).

13 Steele v. Bulova Watch Co., 344 U.S. 280, 285 (1952).

14 See Blackmer v. United States, 284 U.S. 421, 436-37 (1932).

15 See Vermilya-Brown Co. v. Connell, 335 U.S. 377, 390 (1948).

16 See Branch v. Federal Trade Commission, 141 F.2d 31, 35 (7th Cir. 1944).

17 Note the significance of the interpretation given the word "possession" by the Court in Vermilya-Brown Co. v. Connell, 335 U.S. 377 (1948) in the light of the similar wording in statutes cited in footnote 12 of the Court's opinion. 335 U.S. at 386-87.

In observing the conditions under which the courts of this country will or will not apply its laws, a few factors appear significant: (a) whether or not the acts of another government are drawn into the litigation, either directly or collaterally, so that the courts must pass upon the legality of those acts; (b) the foreign nation's system of jurisprudence; (c) the effect on local foreign conditions of a determination that the law operates extraterritorially; and (d) the nature of the claim sought to be vindicated.

Acts of the Foreign Government

The principal reason for reluctance[18] in deciding that statutes operate extraterritorially is that this extension of such laws is repugnant to the sovereignty of the other nation. However, there appear to be degrees of repugnancy. Where the sovereignty tof another nation is not involved, the Supreme Court has been quick to find that the United States law operates extraterritorially.[19] But if a decision on the merits will clearly draw into judgment the legality of the foreign nation's acts, the courts decline even to make a decision whether or not the American laws so operate.[20] Between these extremes is a middle ground wherein the act of the foreign government is only collaterally involved, and the judicial determination will not necessarily include a judgment of the legality of the other nation's act. When the declaration will not be inconsistent with the maintenance of foreign sovereignty, the courts will consider the merits of the case and for the same reason, be more inclined to give extraterritorial effect to the law of the United States.

The nature of acts performed by foreign governments examined together with the judicial reaction thereto establishes whether a nation's sovereignty will be affronted should the court adjudicate the case. In *Oetjen v. Central Leather Co.*,[21] General Villa, acting for the revolutionary forces in Mexico, seized leather hides in the possession of one Martinez. Suit was brought in the United States by parties claiming title in the goods at the time of seizure against parties who had received the goods from Villa. The Supreme Court declined to decide the question of wrongful taking, commenting that the revolutionary Carranza faction represented the government of Mexico and that the Court would not reexamine the acts of another sovereign state.[22] In another Mexican

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18 See note 12 *supra.*

19 Skiriotes v. Florida, 313 U.S. 69 (1941). The Court stated, 313 U.S. at 76: "Even if it were assumed that the locus of the offense was outside the territorial waters of Florida, it would not follow that the State could not prohibit it own citizens from the use of the described divers' equipment at that place."

20 American Banana Co. v. United Fruit Co., 213 U.S. 347 (1909). The same result obtains even when the foreign government is not recognized by the government of the United States, but has a *de facto* existence. Wulfsohn v. Russian Socialist Federated Soviet Republic, 234 N.Y. 372, 138 N.E. 24 (1923), *appeal dismissed per curiam,* 266 U.S. 580 (1924).

21 246 U.S. 297 (1918).

22 *Id.* at 304.

situation,[23] the petitioner imported parts of watches into Mexico where they were assembled and stamped with the mark "Bulova." It was alleged that the petitioner, a citizen of the United States, violated the Lanham Act. Petitioner pleaded in defense that he had previously procured the Mexican registration of the trade-mark "Bulova." The district court refused to grant the injunction and the other relief prayed for. After the Supreme Court had granted certiorari, but before it decided the case, the Supreme Court of Mexico upheld an administrative ruling which nullified petitioner's Mexican registration of the trade-mark. The United States Supreme Court pointed out specifically there was no question before it as to whether a valid foreign registration would affect either the power to enjoin or the propriety of its exercise, and had little difficulty in deciding that Congress, in passing the Lanham Act, intended it to operate extraterritorially.[24] That Mexico had a trade-mark registration law made no difference.

The matter which the Supreme Court did not have to consider in *Steele v. Bulova Watch Co., i.e.,* what the result should be if the trade-mark of Mexico were not nullified, was recently considered in a district court.[25] There the Mexican registration of the trade-mark "Las Palmas" was still in effect. Plaintiff was a citizen of California. The corporate defendant was incorporated in California; of the two individual defendants, one was a citizen of California and the other a citizen of Mexico. Plaintiff, owner of the validly registered United States trade-mark "Las Palmas" (used on canned food products), brought suit under the Lanham Act, and sought to enjoin defendant's use of the name "Las Palmas." The court issued the injunction, ordering the defendants to cease using the name "Las Palmas" in either the United States or the Republic of Mexico. The court considered the matter of Mexico's sovereignty and decided there was no affront to it after examining the nature of the Mexican registration law.[26] The Mexican law was interpreted so as to make it and the Lanham Act compatible although contemporaneously effective.

The *Oetjen* case and *Steele v. Bulova Watch Co.* demonstrate the difference in result which can be expected when the acts of a foreign

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23 344 U.S. 280 (1952).

24 *Id.* at 289. *But see* 3 CALLMAN, UNFAIR COMPETITION AND TRADE-MARKS § 76.4 (2d ed. 1950):

> "The law of trade-marks rests upon the doctrine of nationality or territoriality. The United States and most other countries respect this basic premise. The scope of protection is, therefore, determined by the law of the country in which protection is sought, and international agreements for the protection of industrial property are predicated upon the same principle."

25 Ramirez & Feraud Chili Co. v. Las Palmas Food Co., 146 F. Supp. 594 (S.D.Cal. 1956).

26 "For at the most defendants' Mexican registration of plaintiff's mark can have no greater effect than to confer upon defendants a license or permission to use the mark in Mexico. . . .

"It should perhaps be emphasized that plaintiff does not seek a determination that any act of a foreign sovereign is invalid." *Id.* at 602.

government are, or are not involved. The case involving the "Las Palmas" trade-mark illustrates a situation where the "act" of a foreign government is involved; but the facts place it in the area between these two cases. The Court, in *Oetjen,* in order to arrive at a decision on the merits, would necessarily have had to consider the legality of the seizure by the Mexican government; that act would have been directly drawn in question. Since the court in the "Las Palmas" case construed the Mexican law so as to find no conflict, the "act" of that government in registering (or licensing) the trade-mark may be characterized as only a collateral factor. Whereas in *Oetjen,* the Court declined to decide on the merits, the court in the "Las Palmas" case did not; once the court in the latter case overcame the jurisdictional hurdle, it proceeded to give extraterritorial effect to the statute.

The United States Court of Appeals for the Second Circuit recently refused to apply the Lanham Act extraterritorially where the defendants were Canadian nationals using a trade-mark registered in Canada.[27] The plaintiffs were owners of the same trade-mark registered in the United States. The court in examining *Steele v. Bulova Watch Co.* thought three factors were stressed:[28] (1) the defendant's conduct had a substantial effect on United States commerce; (2) the defendant was a United States citizen; and (3) there was no conflict with trade-mark rights established under the foreign law, since defendant's Mexican registration had been cancelled. The court said the absence of one of the above factors might well be determinative and the absence of two would be fatal; and that only the first of the three factors was present in the case under consideration. In the "Las Palmas" trade-mark case, the first factor was present. But, in the view of the Second Circuit, it would seem the third factor was not present; and the second factor was only partically present, since one of the individual defendants was a Mexican citizen. Yet the court in the "Las Palmas" case applied the Lanham Act extraterritorially. This result, in light of the foregoing analysis, further encourages the conclusion that the manner in which the act of the foreign government is drawn into the litigation—collaterally or directly—is determinative in the choice whether a decision will be rendered on the merits.

The presumption of territoriality is mentioned in *American Banana Co. v. United Fruit Co.* where suit was brought to recover treble damages under the Sherman Act for defendant's conspiracy with Costa Rican authorities to seize the plaintiff's lands and supplies with the express purpose of driving the plaintiff out of the market. The Court said ". . .the general and almost universal rule is that the character of an act as lawful or unlawful must be determined wholly by the law of the country where the act is done."[29] Proceeding from this viewpoint, the Court reasoned that since law is what the sovereign declares it to be, and since the government of Costa Rica was alleged

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27 Vanity Fair Mills v. T. Eaton Co., 234 F.2d 633 (2d Cir. 1956), *cert. denied,* 352 U.S. 871 (1956).

28 *Id.* at 642. See note 23 *supra.*

29 213 U.S. at 356.

to have taken part in the conspiracy, there was no tort committed.[30] But another reason was assigned for the decision, *viz.*, Congress probably did not intend that the Act apply extraterritorially, since the presumption is that "all legislation is prima facie territorial."[31] This latter reason was ignored by the district court in *Sanib Corp. v. United Fruit Co.*[32] Excepting the difference that no act of a foreign government was involved, the factual situation was very nearly like that of *American Banana Co.* This difference was the distinction the court drew upon in deciding that *American Banana Co.* did not control; the court held that the Sherman Act applied extraterritorially, passing over the presumption of territoriality. The absence of action by the foreign government made the difference. Although the court indicated that acts effectuating the conspiracy were partly performed in the United States, this was not a point of distinction.[33]

The court in *Branch v. Federal Trade Commission*[34] did not stress the same distinction as did the *Sanib* court, but said all the acts of the defendant in *American Banana Co.*, occurring in Panama and Costa Rica, were not considered actionable wrongs there. It said further that suit was not brought in *American Banana Co.* in an attempt to protect resident competitors from "defilement of commerce originating in the United States."[35] The holding in *Branch* that the purpose of the Federal Trade Commission Act was to protect competitors at home is hardly a basis for distinction. Competition could only exist if the firms sought to be protected did business in those countries as defendant; if that were so, there would not be substantial difference between that case and *American*

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30 *Id.* at 357. It is interesting to note how Holmes' positivistic attitude toward the law influenced the decision. Proceeding from the premise that law is simply what the sovereign declares it to be, Holmes' conclusion that there was no tort at all is logically inescapable. But it is submitted that the seizure of property under the circumstances of this case is "tortious" no matter who did it, and that if a sovereign is not to be held accountable, then it is because the policy of "maintaining sovereignty" is greater than that of obtaining restitution from the wrongdoer; the basis for the decision ought to be immunity, not that there was no wrong. Under this view, although the government is not liable, the other party to the conspiracy may be considered to be; here, it would be United Fruit Co. There are many analogies where, although one actor is free from liability, a joint actor, because of a difference in status, is not free. *E.g.*, Rice v. Coolidge, 121 Mass. 393 (1876); see Contino v. Baltimore & Annapolis R.R., 178 F.2d 521 (4th Cir. 1949), *cert. denied*, 341 U.S. 927 (1951); *accord*, Ewald v. Lane, 104 F.2d 222 (D.C. Cir.), *cert. denied*, 308 U.S. 568 (1939).

31 *Id.* at 357.

32 135 F. Supp. 764 (S.D.N.Y. 1955). The court said, in distinguishing the *American Banana Co.* decision, at 135 F.Supp. 766: "The American Banana Co. decision is not contrary. There the complaint was viewed as claiming damage not from the alleged monopoly as such, but from seizure of the plaintiff's property by a foreign government at the defendant's urging."

33 *Ibid.* It is submitted that in any case of similar nature, *i.e*, where the defendant is an American corporation, the court could find that part of the acts occurred in the United States.

34 141 F.2d 31 (7th Cir. 1944).

35 *Id.* at 35.

Banana Co.[36] The distinction ought to be that no act of a foreign government was involved. The possibility that the other government had adequate controls on business activity in that country, or that it preferred no such restraints was not discussed.

An attempt to circumvent the hands-off policy of the courts when the act of a foreign government is drawn into litigation has been made on the basis that such a policy applies only to "physical acts."[37] Although that contention has been rejected, the distinction is novel. The assertion is that seizure of property would involve a "physical act" of the government, whereas registering a trade-mark would not; and that the cases effectuating the policy of non-interference have only been concerned with the former. Decisions giving effect to foreign legislation,[38] not having to do with seizure of property, but affecting property rights of Americans, refute the distinction by refraining from an examination of that legislation.

The Other Nation's System of Jurisprudence

It has been said that American law will apply where the alternative would be a resort to "no law that civilized countries would recognize as adequate. . . ."[39] This theory was utilized in a case where an American citizen who, while temporarily in Saudi Arabia, was injured in a collision with a truck driven by one of defendant's employees. The defendant was an American corporation.[40] In seeking to have the court apply American law, plaintiff urged that Saudi Arabia had "no law or legal system" and contended, in effect, that the nation was uncivilized. Although the judgment of dismissal was affirmed, the writer of the opinion, Judge Frank, thought the case ought to have been remanded so the plaintiff could prove Saudi Arabia had no "civilized" legal system, and therefore, that American law would apply.[41]

The importance of the differences in civilization[42] was recognized in treaties as early as 1830.[43] This difference, while once widely made efficacious through treaties, has not often been considered in the cases. The holding that American law ought to apply where the foreign nation is not "civilized" works out quite well in that the countries which are not "civilized" are also those which seem to be closest to the ancient concepts

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36 See note 32 *supra.*

37 Pasos v. Pan American Airways, 229 F.2d 271, 272-273 (2d Cir. 1956).

38 See, *e.g.*, Doyle v. French Telegraph Cable Co., 244 App. Div. 586, 280 N.Y. Supp. 281 (1935).

39 American Banana Co. v. United Fruit Co., 213 U.S. 347, 355-356 (1909) (dictum). See also Slater v. Mexican National R.R., 194 U.S. 120, 129 (1904) (dictum).

40 Walton v. Arabian American Oil Co., 233 F.2d 541 (2d Cir. 1956), *cert. denied,* 352 U.S. 872 (1956).

41 *Id.* at 546.

42 Letter from Commissioner Cushing to Secretary of State Calhoun, MS. STATE DEP'T, Sept. 29, 1844, printed as *Rationale of Extraterritoriality,* 1 Extraterritorial Cases 4.

43 Treaty with the Ottoman Porte, May 7, 1830, art. IV, 8 STAT. 409. Dainese v. Hale, 91 U.S. 13 (1875) discusses this and related treaties.

of jurisdiction, *i.e.*, the idea that the law of the tribe or nation followed the individual. The concept of territoriality arises contemporaneously with the advance of civilization, and it is not until the foreign nation becomes sophisticated, by way of a legal system, that there is a conflict in the mutual exercise of jurisdiction.[44]

Effect on Local Foreign Conditions

In situations where the application of American law outside the United States will have a direct bearing upon the social or economic conditions of the other nation, the courts hesitate to interpret United States law so that it operates extraterritorially. On the other hand, where there is no such influence, and the United States has in some way an interest in applying its law to activities outside the country, the courts are not so inclined to give effect to the presumption that Congress did not intend the law to apply outside the country.

An area in Bermuda, leased by Great Britain, was considered a "possession" of the United States under the Fair Labor Standards Act so that the employees of government contractors working on the Bermuda base could successfully sue for overtime under that act.[45] The importance of that construction is emphasized when statutes with similar wording are examined.[46] Although the decision turned on the interpretation of the word "possession," and not on the determination that Congress otherwise intended the act to operate extraterritorially, such operation was the net effect.[47] The identical statute was not given extraterritorial operation in *Foley Bros. v. Filardo*,[48] where the plaintiff also presented a claim for overtime. Services were rendered by plaintiff while he was in Iran and employed by the defendant, a government contractor. The court, in granting judgment for the defendant, pointed out that to construe the statute so that it would apply to the plaintiff would necessarily require a construction that it also applied to local laborers in Iran; this the Court would not do.[49]

This same effect on local labor that restrained the Court in *Foley Bros.* also operated in a case before the Court of Claims. There a Filipino plaintiff employed by the United States Army in the Phillipine Islands brought suit for annual leave under a federal statute which provided that

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44 See notes 1 and 2 *supra.*

45 Vermilya-Brown Co. v. Connell, 335 U.S. 377 (1948), four judges dissenting.

46 See note 17 *supra.*

47 That the Court may have gone too far is indicated in United States v. Spelar, 338 U.S. 217 (1949).

48 336 U.S. 281, 285 (1949).

49 The Court stated, 336 U.S. at 286:

> "No distinction is drawn therein between laborers who are aliens and those who are citizens of the United States. Unless we were to read such a distinction into the statute we should be forced to conclude, under respondent's reasoning, that Congress intended to regulate the working hours of a citizen of Iran who chanced to be employed on a public work of the United States in that foreign land. Such a conclusion would be logically inescapable although labor conditions in Iran were known to be wholly dissimilar to those in the United States and wholly beyond the control of this nation."

such leave be given to all employees of the United States.[50] Speaking of Congress, the court said, "It gave no thought to the question of native labor in foreign countries, though it did make the statute applicable to United States employees 'stationed' abroad."[51] This court and the Supreme Court in *Foley Bros.* saw in each instance that Congress intended the respective statutes only to apply to domestic situations.

Since local conditions in other countries would have been directly affected through the assumption of jurisdiction by the National Mediation Board over labor disputes arising in those countries, the Railway Labor Act, empowering the Board to act, was declared to be inoperative outside the United States.[52] Without a countervailing interest in the promotion of peaceable labor relations present, intervention ought to have been avoided.

On the other hand, the Federal Trade Commission Act was applied extraterritorially in *Branch v. Federal Trade Commission.*[53] But there the effect of extraterritoriality on local socio-economic conditions could hardly have been serious; and whatever effect there may have been clearly appeared salutary. Probably more important, there was present the stated interest of the United States in regulating trade practices between American corporations.[54]

There was no element of immediacy of effect on local conditions in *Sanib v. United Fruit Co.*, where the Sherman Act was applied extraterritorially. Nor was there such an element present in *Timken Roller Bearing Co. v. United States,*[55] where the Supreme Court ordered intercorporate holdings be dissolved when a domestic corporation had agreed with two foreign corporations upon a mutually exclusive international marketing arrangement. The same factor was absent in the cases which applied the Lanham Act extraterritorially.[56]

The Nature of the Claim Sought to be Vindicated

The distinction between transitory actions and actions which are local because their "cause is in its nature necessarily local,"[57] is carried over into the area of international law. In at least one situation, the nature of the claim is such that courts of the United States will not even take jurisdiction, much less apply American law extraterritorially. In *Pasos v. Pan American Airways,* [58] involving an action to recover damages for an

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50 Luna v. United States, 124 Ct. Cl. 52, 108 F. Supp. 510 (1952).

51 *Id.* at 58, 108 F. Supp. at 513.

52 Air Line Dispatchers Ass'n v. National Mediation Bd., 189 F.2d 685 (D.C. Cir. 1951), *cert. denied,* 342 U.S. 849 (1951).

53 141 F.2d 31 (7th Cir. 1944).

54 Although the element of governmental interest in business responsibility abroad was not mentioned in *Branch,* a Canadian court saw it as a ground for acknowledging the jurisdiction of the Quebec Securities Commission outside the province. N.Y. Times, June 10, 1957, p.37, col. 6.

55 341 U.S. 593 (1951).

56 See notes 23 and 25 *supra.*

57 Livingston v. Jefferson, 15 Fed. Cas. No. 8411, at 664 (C.C.D. Va. 1811).

58 229 F.2d 271 (2d Cir. 1956).

alleged trespass to lands in Nicaragua, the court dismissed for lack of jurisdiction, stating that the nature of the claim was local.

Conclusion

Recent cases which have had to consider the question whether a law operates extraterritorially bear out the vigor of the rule that the laws of a nation do not operate outside the boundaries of that nation except by the intent of the legislature. In the service of determining this intent, the courts have evinced certain policies which may be taken as signposts. These policies center on the notion of sovereignty.

A court will not sit in judgment on another nation's acts, although the legislative acts of that nation may be subject to interpretation by the court. Refusal to so judge has resulted in failure to decide on the merits of cases. That the government of another nation has the power to regulate a field of activity, and that a litigant is engaged in such field of activity in that country, is no bar to the extension of the laws of this country to that same field of activity. Where the sovereignty of the other nation is not likely to be offended, as it was not in *Steele v. Bulova Watch,* or where overriding considerations such as inadequacy of the law of the foreign country are present, the courts are not disinclined to apply the law of the United States; this is especially true if the government of this country has an interest, such as in the regulation of trade practices between domestic corporations, in the extraterritorial operation of the law.

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