

Die indruk word dus geskep dat die persoonlike aanspreeklikheid net ses maande kan duur. Dit is duidelik verkeerd. Die tydperk van ses maande is slegs van belang om te bepaal of die persoonlike aanspreeklikheid hoegenaamd ontstaan het, en nie vir die duur daarvan nie (sien die bespreking van a 63(c) op bl 184, waar die bepaling korrek uitgelê word). Hoe dit ook al sy, a 63(c) is intussen in elk geval deur die Wysigingswet op Beslote Korporasies 26 van 1997 herroep.

Om op te som, kan hierdie werk sterk aanbeveel word vir enigeen wat die Wet op Beslote Korporasies moet uitlê en toepas.

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Private International Law

Third edition by C F Forsyth

Juta & Co (1996)

429 pp

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GLOBALISATION of trade relations, the modern open world economy and the rapidly expanding use of the Internet all conspire to bring renewed interest to the subject of private international law. It has also acquired added significance for South Africans with the current and prospective relaxation of exchange control, bringing with it increasing opportunities for cross-border transactions which may give rise to disputes that find their way into courtrooms or arbitration tribunals here or elsewhere.

Conventionally the field of private international law can be broken down broadly into studies of jurisdiction, characterization (or classification), choice and application of the *lex causae* and enforcement. Each of these areas holds its own fascination for Dr Forsyth, who tackles them with palpable enthusiasm and scholarly assurance in this third edition of his 1981 work. The treatment of individual topics is held together by a practical and principled emphasis on the role and function of private international law, namely that of dispelling the prospect of forum shopping, as well as that of conflicting but domestically and internationally competent judgments in respect of one and the same dispute. As the author tells us in chapter 1, the goal of uniformity of decision, irrespective of where a matter is litigated, is a

Utopian dream, but it is none the less a useful guide to follow in shaping a legal system's private international law. In the book it is also used as a conceptual focus, keeping the object of the exercise in clear perspective.

Private international law falls into four main divisions: a general section, consisting of an introduction, an essay on history and theory, a description and discussion of some conceptual problems in choice of law and the ascertainment of foreign law (chapters 1 to 4); a section on domicile and jurisdiction (chapters 5 and 6); one dealing with specific areas in which conflict problems arise, being the law of persons and the family (chapter 7), the law of obligations (chapter 9), both contractual (chapter 8, part one) and delictual (chapter 8, part two), and the law of property (chapter 9); finally there is a section on the recognition and enforcement of foreign judgments (chapter 10).

The style of writing is appealingly to the point, interspersed with comment perhaps exemplified by the heading to the table of "Unexpected Interpretations of the Supreme Court Act 59 of 1959" (italics added). Where appropriate, points are forcefully argued, for instance in the section dealing with the finality of foreign default judgments. The analysis and explanation of difficult topics, such as 'gap' and 'cumulation' (where there is either no applicable law, or too much of it), which the author warns may depend on abstractions that may be "wearisome, if not incomprehensible", are developed and expanded from the previous edition, and remain systematic and clear.

The book is generally very well presented and easy to use. There are, regrettably, some points of criticism. With reference to *Kuhne & Nagel v APA Distributors (Pty) Ltd* 1981 (3) SA 736 (W), fn 8 at p 64 states that this important case is fully discussed at 64-5, which it is not. According to the bibliography only the second edition of Honore's *The South African Law of Trusts* (1976) is referred to, whereas that work is now in its fourth edition (1992, by Honore and Cameron); Meyerowitz *The Law and Practice of Administration of Estates* is mentioned in its fifth edition (1976) whereas that work has seen substantial revision and is now in its sixth edition (1989). Both these textbooks contain sections dealing with conflict of laws topics and in the absence of good reasons to the contrary, it was to be expected that the current editions would be referred to. In chapter 10 the tantalizing issue of recognition of foreign court recorded settlements is touched

upon and the conflicting decisions in *Gablesberger and Another v Babl and Another* (1994 2 SA 677 (T) and *Holz v Harksen* 1995 3 SA 521 (C) are mentioned, but without discussion or evaluation. In view of the author's helpful and stimulating observations in relation to the issues set out elsewhere in the book, it is a pity that he did not comment on this one.

These criticisms are, however, minor. Overall the book is presented and written lucidly, with critical insight and comprehensive scholarship. It is a quick and easy source of reference and an enlightening guide through a field seemingly overvegetated by thorny brambles ready to ensnare the intruder. It remains a pre-eminent work on its subject in South Africa and students and practitioners are sure to find it instructive, useful and reliable. The first-class pass given to the first edition by Prof Ellison Kahn remains fully applicable to this third edition.

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Obiter...

Lawyer functions

ADVANCES in information technology, like the Internet, will change the way people use their lawyers and could put some solicitors out of business, Robert Owen QC, chairman of the English Bar, suggested at the recent AGM of that Bar. Whereas up until now, lawyers have used IT to better what they already do, in future, the very nature of legal services will be changed by instant availability of information. This may mean that clients no longer need to go to a solicitor to find out the relevant law. "Much of the traditional function of the lawyer, particularly the solicitor, may well become redundant. The critical point will be that at which the lawyer is called upon to make a judgement. That raised important questions as to how that point will be identified and by whom," said Owen.

He added that the Bar's information technology committee is already looking at ways of making a general advisory service available over the network.

Counsel Sept/Oct 1997