

Stefan Albrecht Riesenfeld (1908-1999)

Author(s): David D. Caron

Source: *The American Journal of International Law*, Vol. 93, No. 2 (Apr., 1999), pp. 465-467

Published by: Cambridge University Press

Stable URL: <http://www.jstor.org/stable/2998001>

Accessed: 26-02-2018 20:31 UTC

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <http://about.jstor.org/terms>



JSTOR

Cambridge University Press is collaborating with JSTOR to digitize, preserve and extend access to *The American Journal of International Law*

NOTES AND COMMENTS

STEFAN ALBRECHT RIESENFELD (1908–1999)

On February 17, 1999, Professor Stefan Riesenfeld died peacefully in Berkeley, California, at the age of ninety years. He was blessed with an encyclopedic memory and a quick and razor sharp wit. The former combined with prodigious energy and complete commitment to the scholarly life to yield one of the finest legal minds of this century. The latter combined both with the former and a deep commitment to his students to make him one of the most memorable and loved professors at the University of California at Berkeley. To this day, congregations of international lawyers, meeting almost anywhere, pause to tell their Riesenfeld story or quip. A favorite of mine is the reply he once gave to a question in class: "I can teach it to you, but I can't understand it for you." These attributes remained with him to the very end of his life. In the fall of 1998, he taught a full load of courses as usual at the Hastings College of Law and a half load at the University of California at Berkeley (thereby probably teaching more than any of his colleagues at either institution). This brief Note celebrates his life, his many contributions to the fields of international and comparative law, and his long and treasured affiliations with the American Society of International Law and this *Journal*.¹

I.

Stefan Albrecht Riesenfeld was born on June 8, 1908, in Breslau, Germany, one of the twin sons of an academic father. Riesenfeld stated that his first memory was of sitting atop his father's shoulders watching as Kaiser Wilhelm, astride a horse and wearing polished armor, proceeded through Breslau to dedicate a hall celebrating the hundredth anniversary of the defeat of Napoleon. After the First World War, in which his father was killed, Riesenfeld studied at the renowned university in Breslau, now the University of Wrocław, Poland, which proudly feted him on his first postwar return to his birthplace in the late 1970s. Following his state examination, he presented a dissertation on the law of mutual insurance companies, for which he received his doctorate summa cum laude in 1930. The dissertation was published in 1932 in a famous series of legal texts edited by Berlin's Arthur Nussbaum.² During these late Weimar years, Riesenfeld practiced with a Berlin commercial firm and became a research associate of the famous Kaiser Wilhelm Institute, founded by Ernst Rabel.

As he was completing further academic studies in Milan, where he earned the Dott. in Giur. in 1934, he met the famous comparativist Max Radin, a member of the law faculty of the University of California at Berkeley, Boalt Hall. The Dean of Boalt Hall, Edwin Dickinson, was looking for a research associate who could work in German, Italian and

¹ For fuller discussions of Stefan Riesenfeld's life and scholarship, see *Stefan A. Riesenfeld*, 63 CAL. L. REV. 1381–609 (1975); IUS INTER NATIONES: FESTSCHRIFT FÜR STEFAN RIESENFELD AUS ANLAB SEINES 75. GEBURTSTAGES (Erik Jayme et al. eds., 1983); 20 HASTINGS INT'L & COMP. L. REV. 525–711 (1997); and 16 BERKELEY J. INT'L L. (1998) (issue celebrating his 90th birthday). See also the collective tribute including Professor Riesenfeld in *U.S. Law in an Era of Democratization*, 38 AM. J. COMP. L. at i (Supp. 1990), and his role as both subject and author in *DER EINFLUSS DEUTSCHER EMIGRANTEN AUF DIE RECHTSENTWICKLUNG IN DEN USA UND IN DEUTSCHLAND* (Marcus Lutter, Ernst C. Stiefel & Michael H. Hoeflich eds., 1993). From an earlier day, see his starring role in Eugene B. Morosoli, Book Review, 43 CAL. L. REV. 369, 373 (1955) (cartoon).

² DAS PROBLEM DES GEMISCHTEN RECHTSVERHÄLTNISSES IM KÖRPERSCHAFTSRECHT: UNTER BESONDERER BERÜCKSICHTIGUNG DER VERSICHERUNGSVEREINE AUF GEGENSEITIGKEIT (1932).

French. Radin, conversing in German with Riesenfeld, told him of this possibility and in due course an invitation arrived from Dickinson to work with him in California, an invitation that the onset of the Third Reich regime the year before made easy to accept. Needless to say, Dickinson was surprised to learn on Riesenfeld's arrival that he did not speak English! Radin had never mentioned that language. But young and energetic enough to wave aside the obvious handicaps, Riesenfeld asked for and received permission to enroll at Boalt while earning his living in comparative legal research, and he graduated in 1937.

He then went on to study at Harvard, which led to the J.S.D. in 1940, and to work with Felix Frankfurter, with Roscoe Pound, and then with State Attorney General Earl Warren in litigation between the states and the federal Government on title to U.S. offshore waters. In 1942 he published a prescient and influential book on fisheries regimes in public international law.³ At this time he also began his academic career at the University of Minnesota, where he taught law while earning an undergraduate degree in engineering. Voluntary enlistment in the U.S. Navy and an extended tour of duty on a landing ship in the South Pacific followed—the source of some of Riesenfeld's choicest anecdotes. The juxtaposition of these events in his life was captured by Professor Harry N. Scheiber in a recent article: "while its author [in 1942] was entering the U.S. Navy to serve as an enlisted man in combat areas, the treatise appeared in print and was quickly recognized as one of the landmarks of the twentieth century in the literature of international law."⁴

In 1952 Riesenfeld accepted a call to Boalt Hall and the rest is California history. From 1952 until 1976, when he suffered mandatory retirement, he flourished at Berkeley and Berkeley flourished with him. Riesenfeld was elected to the Board of Editors of the *American Journal of International Law* in 1963. He was a prolific contributor to the pages of this *Journal*. He wrote eleven editorials and notes for the *Journal* and an impressive thirty-four reviews of books in six languages. His relationships with this *Journal* and the American Society of International Law were among his most valued professional associations.

After his formal separation from Berkeley in 1976, Riesenfeld took it upon himself to redefine the word "retirement." He was promptly appointed to the Hastings faculty and enjoyed continuous annual reappointments at Boalt for the rest of his life. Moreover, he immediately took up the post of Counselor for Public International Law at the U.S. Department of State where he served for most of President Carter's administration. He continued to work with the Department up to his death and twice was engaged to argue major cases before the International Court of Justice in The Hague.⁵

Riesenfeld wrote a storehouse of books and articles, writing first (and usually final) drafts with a pen on lined paper, bent close to the page and gnawing his knuckles.⁶ He went to the shelves and the locked cage himself, finding everything, and remembering everything he had found, including where he had found it. His research assistants learned more by following him on these rounds than by writing drafts for other, more

³ STEFAN A. RIESENFELD, *PROTECTION OF COASTAL FISHERIES UNDER INTERNATIONAL LAW* (1942).

⁴ Harry N. Scheiber & Christopher J. Carr, *From Extended Jurisdiction to Privatization: International Law, Biology and Economics in the Marine Fisheries Debate, 1937–1976*, 16 *BERKELEY J. INT'L L.* 10, 11 n.2 (1998).

⁵ *Delimitation of the Maritime Boundary in the Gulf of Maine Area* (Can. v. U.S.), Judgment, 1984 ICJ REP. 246 (Oct. 12); *Military and Paramilitary Activities in and against Nicaragua* (Nicar. v. U.S.), Jurisdiction and Admissibility, 1984 ICJ REP. 392 (Nov. 26). Professor Riesenfeld was also an active consultant in *Eletronica Sicula S.p.A. (ELSI)*, Judgment, 1989 ICJ REP. 15 (July 20).

⁶ The *California Law Review* was established in 1912. Riesenfeld is the only person to have published in the 25th, 50th and 75th anniversary issues of the journal.

passive employers. Secondary citations did not substitute for primary ones, nor translations for their original versions—no matter in what language.

II.

My friendship with Riesenfeld spanned only the last two decades of his long life. Yet even in that period, a hallmark of Riesenfeld's life was his currency—it was he who at ninety knew the latest French holdings on privacy law and he who most closely monitored the developments in Mercosur.

As the century drew to a close, however, I believe he saw that there was less appreciation of the horrors of the first half, and consequently less appreciation of the value of the hard-won transformations in international order of the second half. This is not to imply that Riesenfeld dwelled in the past; he did not. On occasion, he told stories about the past, but he did so not to draw his listeners into a remembered better time but, rather, to illuminate a conversation and problem of the present that he saw all too well. Over the last several decades, I believe he wanted the newer generations to understand that the first half of this century really happened. Riesenfeld's preference for the complexity of reality over the parsimonious simplicity of theory was in part a consequence of his belief that law and politics are not games. Indeed, although he was playful, scholarship to him was not a game, either. To be a scholar, in Riesenfeld's view, was not merely to be an academic. Nor was it to adopt the equally simplistic activism of some. Rather, it was to believe in the importance and urgency of more fully understanding our world. Law and politics were important, and simplistic theoretical filters on such complex phenomena were potentially dangerous.

The UN Charter begins: "determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow." Riesenfeld's life was tossed about by those two wars—a father was lost in the first, and the second led to the loss of one homeland and the gain of a new one, the United States. Yet, or perhaps because of these forces, Riesenfeld devoted much of his life to the goals of the Charter. He was a member of that small group of very talented international lawyers who helped take our world from the Second World War to the present. A deep respect for the individual and a strong belief in economic integration were his avenues to a better world. The first half of this century *was* real.

His many students and colleagues in practice, academia, nongovernmental organizations, governments and international organizations join with Steve Riesenfeld's wife and family in mourning the loss of this memorable man and celebrating his productive and rich life.

DAVID D. CARON*

CORRESPONDENCE

The *American Journal of International Law* welcomes short communications from its readers. It reserves the right to determine which letters should be

* Of the Board of Editors. This note draws, while expanding, on a tribute that I co-authored with my colleague, Richard M. Buxbaum, and that appears in volume 16 of the *Berkeley Journal of International Law* at p. 1 (1998).