

protest or objection by the offended sovereign” the violation of international law cannot be raised as an issue.<sup>54</sup> Consent may indeed have this effect, but mere acquiescence or silence does not imply consent, waiver or estoppel, at any rate in the absence of knowledge of the underlying facts. This sounds elementary, but there are few sources of international law where the point is authoritatively stated. The Chamber’s pronouncements will, it is hoped, be carefully heeded.

F. A. MANN\*

### F. A. MANN (1907–1991)

Francis Mann, who died in London on September 16, 1991, at the age of 84, was one of the leading litigating solicitors of the century and an international lawyer whose writings in the penumbra where public international law and international private law meet were unmatched. He was in the midst of correcting the proofs of the fifth edition of his almost canonical work *The Legal Aspect of Money*, initially published in 1938, when he suddenly died. He was in his habitual vigorous form only two weeks earlier at the Basel session of the Institut de Droit International.

Mann emigrated from Germany to England within weeks of the Reichstag fire. He became one of the many, and of the most distinguished, contributions made by the Third Reich to the intellectual life of England. Having studied at the Universities of Geneva, Munich and Berlin, and worked as an assistant at the Faculty of Law of the Friedrich Wilhelm University in Berlin from 1930 to 1933, where he was destined for an academic career, Mann reestablished his life in London. He took an LL.D. at the University of London, presenting the first edition of *The Legal Aspect of Money* “as a sufficient warranty” therefor. He began the practice of law in 1934 with his wife, and, in 1946, became a solicitor. In the same year, he returned to Berlin as a British member of the legal division of the Allied Control Council, where he worked on the de-Nazification of German law.

Mann’s practice as a solicitor burgeoned to embrace some of the most prominent cases and personalities of his day. He was among those who represented Belgium before the International Court of Justice in the *Barcelona Traction, Light and Power Co., Ltd.* case and was the lead and successful counsel of the Federal Republic of Germany in the extended arbitral proceedings in the *Young Loan* case. His distinction was such that, by the end of his life, he was one of the first two solicitors ever to be named honorary Queen’s Counsel and the first solicitor ever to be elected an honorary bencher of Gray’s Inn. Mann lectured widely after the Second World War, particularly at German universities, and in 1960 was appointed honorary Professor of Law at Bonn, to which he frequently returned to teach international commercial law and English law. He was a Fellow of the British Academy and the recipient of honorary degrees and distinctions from the Univer-

<sup>54</sup> United States *ex rel.* Lujan v. Gengler, 510 F.2d 62, 67 (2d Cir. 1975) (emphasis added); United States v. Reed, 639 F.2d 896, 902 (2d Cir. 1981).

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*Editor’s note:* We report, with deep regret, that F. A. Mann died before this Comment went to press and before he could review the editorial changes made to conform the essay to AJIL and U.S. style. We are privileged to be able to publish one of the last works of this distinguished authority. For an appreciation of Dr. Mann’s life and work, see the memorial by Judge Stephen M. Schwebel, which immediately follows this Comment.

sities of Kiel, Zurich, Berlin, London, Birmingham and, in 1991, Oxford. He was an Honorary Member of the American Society of International Law.

Readers of this *Journal* will know Mann not so much as a practitioner or teacher but as a scholar. Over some fifty years, Mann produced a stream of articles, notes and book reviews that centered on the interrelationship of international and national law. His *Studies in International Law* (1973) brought together twenty-one of those essays, and was awarded the Society's Certificate of Merit. In 1990, it was supplemented by *Further Studies in International Law*, which contains another seventeen essays. He also wrote extensively, in English and German, on the conflict of laws, comparative law, the law of arbitration, expropriation, and monetary law. Mann gave four courses of lectures at the Hague Academy of International Law, and was the author of *Foreign Affairs in English Courts* (1986) and another half-dozen legal works in German, as well as many diverse articles and scores of case notes. Some articles dealt with questions of public policy, such as fusion of barristers and solicitors, which Mann opposed, and European monetary union, of which he was a strong critic. As of 1977, Mann had written 239 book reviews in legal publications (they are listed in an appendix, together with a list of his other voluminous writings as of that time, in a *Festschrift* in German and English, *International Law and Economic Order: Essays in Honour of F. A. Mann on the Occasion of His 70th Birthday*, edited by Werner Flume, Hugo J. Hahn, Gerhard Kegel and Kenneth R. Simmonds).

A book review by Mann—even one of hundreds—was no exercise in bland summary. Mann's lucid English prose was as piercing as his mind. He was mordant; he took it as the duty of a critic to criticize. His case notes were no less exacting. Mr. Justice Hoffmann recounts in *The Guardian* of September 20, 1991, that “[l]ast year a member of the House of Lords confessed to me that he felt nervous at seeing him [Mann] listening to argument in the Committee Room. He could foresee that any shortcomings in his judgment would be remorselessly exposed in the next number of the *Law Quarterly Review*.” Mann's crisp and committed style ran throughout his extensive publications. Mann was a man of convictions, of strong views, and of a capacity for moral indignation. His writings were, if not opinionated, certainly combative. They were marked by an extraordinary acuity, which was as enlightening as it was stimulating. His conversation was no less enlivening.

Mann was as committed to family and friends as to his convictions. A man of flinty integrity and engaging charm, he was exceptionally cultured, especially in music and literature. “Of all my learned friends,” Lord Denning wrote in his book *The Due Process of Law* (1980), “Francis Mann is the most learned of all.”

The stimulus of his remarkable mind and character will be missed.

STEPHEN M. SCHWEBEL\*

## CORRESPONDENCE

The *American Journal of International Law* welcomes short communications from its readers. It reserves the right to determine which letters should be published and to edit any letters printed. Letters should conform to the same format requirements as other manuscripts.

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