

T.M.C. ASSER INSTITUUT

INTERCONTINENTAL COOPERATION
THROUGH
PRIVATE INTERNATIONAL LAW

Essays in Memory of Peter E. Nygh

Edited by
Talia Einhorn and Kurt Siehr

T.M.C. ASSER PRESS

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T · M · C · A S S E R P R E S S

Published by T.M.C.ASSER PRESS
P.O.Box 16163, 2500 BD The Hague, The Netherlands
www.asserpress.nl

T.M.C.ASSER PRESS English language books are distributed exclusively by:

Cambridge University Press, The Edinburgh Building, Shaftesbury Road,
Cambridge CB2 2RU, UK,

or

for customers in the USA, Canada and Mexico:
40 West 20th Street, New York, NY 10011-4211, USA

www.cambridge.org

ISBN 90-6704-178-5

© 2004, T.M.C.ASSER PRESS, The Hague, The Netherlands

T.M.C. Asser Instituut - Institute for Private and Public International Law, International Commercial Arbitration and European Law

Institute Address: R.J. Schimmelpennincklaan 20-22, 2517 JN The Hague, The Netherlands;
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Peter E. Nygh
16 March 1933 – 19 June 2002

PETER EDWARD NYGH passed away on 19 June 2002.¹ Friends and colleagues worldwide lost a person whom they might have called “brother-in-law” in the literal sense. They wanted to honour PETER NYGH on his 70th birthday with a *Festschrift*. Now we have to publish a *Gedächtnisschrift*.

PETER NYGH was born in Hamburg, was raised in the Netherlands (Den Haag, Rotterdam) and after having lost his parents, he emigrated to Australia with his step-mother in 1951. He attended Sydney University Law School, graduated and started his professional and academic career in New South Wales and Tasmania. PETER got married, founded a family, became professor of law,² contributed extensively to literature on Australian and international family law,³ was appointed a judge of the Family Court of Australia and served as Principal Member of the Refugee Review Tribunal. PETER NYGH became a great Australian and in recognition was awarded the Order of Australia in May 2002.

At the same time, PETER NYGH was also a great internationalist. He was one of the very few scholars with excellent knowledge of both the common law and civil law legal systems, a deep understanding of their differences and similarities and, no less important, had linguistic access to all primary sources of these systems. As a young scholar, PETER NYGH spent some time in Ann Arbor,

¹ Cp. the detailed obituary by David Bennett in 76 *Australian Law Journal* (2002) 595 and the shorter *In memoriam* by Patrick Parkinson in 16 *Australian Journal of Family Law* (2002) 77.

² PETER NYGH was Professor of Law at the University of Sydney from 1969-1973; in 1973 he became Professor and Founding Head of Macquarie Law School at Macquarie University in the North Western suburbs of Sydney.

³ PETER NYGH was the General Editor of the *Australian Journal of Family Law* from 1987 – 2000 and wrote many articles and several books on family law. Cp. the bibliography of Peter Nygh *infra* at p. 501.

Michigan, did research in Cologne with a grant from the Alexander-von-Humboldt Foundation, and established connections with scholars in many countries. He became a specialist in the field of private international law and, as such, contributed considerably to the development of this field. In two *fora* PETER NYGH became an indispensable member, promoter and scientific leader – the International Law Association (ILA) and the Hague Conference on Private International Law.

PETER NYGH joined the International Law Association in 1962 as a member of its Australian branch.⁴ He became chairman of the “Collisions at Sea” Committee which completed its work at the 1984 Paris Conference.⁵ PETER NYGH was also a member of the ILA Committee on “Intercountry Adoption and Protection of Children”.⁶ The last committee he chaired was the Committee on “International Civil and Commercial Litigation”. Under the guidance of PETER NYGH as “the star of Sydney” and with the organization as well as the research of Campbell McLachlan as rapporteur, the Committee finished the first part of its work with the Third Interim Report⁷ and the submission of the “Leuven/London Principles on Declining and Referring Jurisdiction in Civil and Commercial Matters”,⁸ adopted in London as ILA Resolution No. 1/2000.⁹

The other international organization with which PETER NYGH has had very close connections is the Hague Conference on Private International Law. He served as a member of the Australian delegation to the Thirteenth and Eighteenth Sessions of the Conference in 1976 and 1996,¹⁰ and was appointed as reporter for the preparation of the Nineteenth Session, working on a worldwide convention on jurisdiction and enforcement of judgments.¹¹ For this project especially, a reporter of PETER NYGH’s quality is urgently needed. The Hague Conference, too, misses him badly.

⁴ The International Law Association (ed.), Report of the Fiftieth Conference held at Brussels, August 19th to August 26th, 1962 (London 1963) cvii.

⁵ The International Law Association (ed.), Report of the Sixty-First Conference held at Paris, August 26th to September 1st, 1984 (London 1985) 414 *et seq.*&&&

⁶ International Law Association (ed.), Report of the Sixty-Seventh Conference held at Helsinki, Finland, 12 to 17 August 1996 (London 1996) 323 *et seq.*&&&

⁷ International Law Association (ed.), Report of the Sixty-Ninth Conference held in London 25-29th July 2000 (London 2000) 137-166.

⁸ International Law Association, *supra* n. 5, at pp. 13-18 with explanations at pp. 153-166.

⁹ International Law Association, *supra* n. 5, at p. 13.

¹⁰ Conférence de La Haye de droit international privé (ed.), *Actes et documents de la Treizième session 4 au 23 octobre 1976*, tome 1 (Den Haag 1978) 7, and *id.* (ed.), *Actes et documents de la Dix-huitième session 30 septembre au 19 octobre 1996*, tome 1 (Den Haag 1997) 7.

¹¹ Cp. the draft of June 2001 in: John J. Barceló III / Kevin M. Clermont (eds.), *A Global Law of Jurisdiction and Judgments: Lessons from The Hague* (Den Haag/London/New York 2002) 311-351.

Some personal remarks may be added. I first met PETER NYGH in Ann Arbor, Michigan in 1962, when I attended the law school as a graduate student and PETER worked on his S.J.D. Since then we met again and again in Hamburg, Ludwigsburg, The Hague and within the International Law Association in Washington and Kyoto, in Copenhagen and Milan. Especially in the sessions of the Hague Conference, Germany and Australia were very close. According to the seating plan of national delegations, with the country names in French, "Allemagne" was only separated from "Australie" by "Argentine" and our colleague and friend Antonio Boggiano of Argentina was kind enough to tolerate our neighbourly cooperation. This is no longer possible. We miss PETER and his serious research combined with a delicate sense of humour and his typical hearty laughter. If all colleagues and delegates were like PETER NYGH, discussions would be fruitful, cooperation very easy and scientific life almost like paradise.

Kurt Siehr, Hamburg

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