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revision commission that can be found in a single human being. Steve's official retirement from the Boalt Hall faculty and the attainment of the title of Professor, Emeritus is simply another milestone in a brilliant career as one of the world's most versatile law teachers and scholars. In ancient Rome, the emeritus honor was bestowed upon a legionnaire who had been honorably discharged and retired after completing his service. The suggestion that it is time to retire, however, seems to have fallen on deaf ears, for Steve, unlike a watch, never seems to run down. This summer he was off to Germany to teach and refresh himself on continental law; next year he will teach at Boalt and Hastings. And there is still the perennial backlog of writing commitments which always seems to spur him on.

There may never again be a legal scholar with the commitment of Stefan Riesenfeld, for as one of my colleagues recently put it: "Steve really cares about the homestead laws of North Dakota." May he have many more years to devote himself to teaching and research. It has been my good fortune to have started with Steve at Boalt Hall, and I now join him in "retirement." He has enriched my professional life immensely, for which I am deeply grateful. He has brought great honor and distinction to Berkeley, his alma mater. May he continue to do so in the coming years.

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PROFESSOR RIESENFELD AND THE NEW REGIONAL ORGANIZATION LAW

Eric Stein†

Those of us familiar with Professor Riesenfeld were not at all surprised to see him intensely intrigued by the recent developments in regional organizational law. Europe has become a laboratory for the new regional institutions, and Riesenfeld's extensive background in civil law and his interest in European politics naturally predestined him to become a leading American scholar in the field. Sensitive as he has been throughout his career to new vistas of international law and relations, he concluded that "[r]egional economic integration has become one of the most important phenomena since the end of World War II."1

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He recognized that "beginning with the establishment of the European Coal and Steel Community in 1952, the creation of free trade areas and common markets has become a reality or at least the subject of discussions and negotiations in nearly every portion of the globe, especially in Europe, Africa, South and Central America, Australia and the Pacific."²

On the theoretical plane, Riesenfeld understood the difficulties surrounding the development of a comprehensive classificatory scheme dealing with regional organizations, with the "endless variety" of such organizations accentuating the already difficult task of defining "statehood and sovereignty in terms of useful and acceptable legal categories."³ But his determination to identify these "useful" categories resulted in several careful studies which contribute importantly to efforts at inclusive classification in this complex and rapidly evolving area. Riesenfeld has examined the entire range of the regional organization phenomenon, from the elemental arrangement involving two neighboring nations—France and Monaco, Italy and San Marino, France and Andorra, Switzerland and Lichtenstein, the United States and Puerto Rico—to the intricate multipartite arrangements found in Europe. From these investigations he determined that the following features are the most salient components of the modern economic integration framework:

(a) the automatism of the gradual dismantlement of intra-community trade barriers;
(b) the inclusion of a special regime for agriculture;
(c) the creation of community organs with directly applicable law-making powers;
(d) the provision for judicial control by a community court;
(e) the establishment of the framework for a common external commercial policy;
(f) the provision for filling gaps in community powers.⁴

The usefulness of this analytic framework outside of the European context was demonstrated by its subsequent application to Latin America. Riesenfeld diagnosed two principal deficiencies in the Latin American Free Trade Area arrangements: periodic negotiations for the gradual reduction of intra-area trade barriers instead of the automatism of the European style, and the weakness of the regional institutions marked

². Id.
by the absence of a judicial tribunal. On the other hand, he pointed to the subregional Andean Common Market with a projected automatic trade liberalization, common tariff, stronger institutions and common policy with respect to foreign capital as presenting a more advanced stage of integration.\(^5\)

Riesenfeld's contributions to the study of the legal issues of regional organization and integration have been extensive and original. His work dealing with European Communities has focused on four principal aspects: (1) the "constitutional" problems, including the nature of the new Community legal order and its relation to the national legal systems; (2) the role of the Court of Justice in the integration process; (3) the rules regarding restrictive and monopolistic practices; and (4) the development of agricultural policy.

In a series of concise and readable articles published in the *American Journal of International Law*, Riesenfeld was the first American to bring the case law of the Court of Justice of the Communities to the attention of the American audience.\(^6\) His articles detailed the gradual evolution of the Court's doctrine—from the "strict constructionist" approach of the early opinions, in which the Court applied the specific technical rules of the Coal and Steel Community Treaty, to the imaginative, purpose-oriented posture of the later cases decided under the broad principles of the "traité-cadre," the framework treaty establishing the Economic Community. In this historical context, Riesenfeld lucidly analyzed the Court's decisions establishing several important constitutional principles: the separateness of the Community legal order from national legal systems; the broadly defined concept of self-executing or "directly applicable" provisions of the Community Treaty and the "secondary legislation" enacted by Community institutions; the right of an individual Common Market citizen to invoke directly applicable Community law against his own government in national courts; the supremacy of Community law over national law and the significant implications of that principle for national constitutional practice; and the power of the Court of Justice to fashion its own general principles for the protection of basic rights of the Community citizens who assert that acts of Community institutions have impaired these rights. In the for-
eign affairs area, Riesenfeld commented authoritatively on a case in which the Court concluded that the Community, not just the Member States, was bound as an international person by international law generally, and specifically by the General Agreement on Tariffs and Trade (GATT), even though it was not formally a contracting party. The GATT article invoked by the parties to a litigation before a national court was not self-executing ("directly applicable") in this case, but the Court did establish the principle that if it had been it could have been relied upon by a Community citizen in any national court, with superiority over conflicting Community law.

Riesenfeld's contributions to the understanding of European laws controlling competitive practices are similarly noteworthy. Shortly after the Rome Treaty went into effect on January 1, 1958, a group of continental, British and American scholars, brought together under the sponsorship of the University of Michigan Law School, set out to explore systematically the implications of the European Economic Community for American governmental and private interests. The blueprint for the undertaking entailed a projection of the Community Treaty against the current national laws and practices of the original six Member States in selected functional areas. It was a matter of course that Riesenfeld would be asked to participate, and it came as no surprise that his contribution ranked among the best. He chose the important and difficult field of "protection of competition" which represented one of the most original and promising aspects of the Common Market. His massive chapter of some 150 pages in the two-volume work remains even today—after more than 15 years of lively evolution of the field—a useful source of information on the national systems of controlling restrictive and monopolistic practices as well as an impressive example of a comparative analysis in a historical perspective. Riesenfeld found that only the 1957 German Law Against Restraints of Competition, which replaced the legislation imposed by the Allied occupation authority, approached the American model; it became a cornerstone of the "social market economy" in the post-war German federation and exerted direct influence on the framing of the Rome Treaty. On the other hand, in Italy and for all practical purposes in Belgium, the competition rules of the Coal and Steel Treaty and of the Common Market Treaty were the first "antitrust law" ever enacted. These rules became "directly applicable" in this case, but the Court did establish the principle that if it had been it could have been relied upon by a Community citizen in any national court, with superiority over conflicting Community law.


applicable" in national courts; the executive Commission of the Community was charged with principal enforcement responsibility and the Court of Justice was given the authority to review the Commission's decisions and to issue binding interpretations on reference from national courts. Riesenfeld brought his study up to date in two articles published in the 1962 volume of the California Law Review.9

Perhaps Riesenfeld's most original contributions in the area of regional organization law are his studies of the agricultural law and policies of the Common Market. Ninety percent of all the acts issued by the Community institutions and a major proportion of the thousand or more cases of the Community Court of Justice concern the agricultural provisions of the Rome Treaty. In fact, owing principally to French pressure, agriculture has become the most integrated sector of the Common Market, with centrally administered marketing organizations covering some 19 different agricultural products. Because of its technical intricacies, this has been a Eurocrat's paradise, where even the proverbial angels—as well as most scholars—have feared to tread. With boundless patience and enthusiasm Riesenfeld plunged into the morass of regulations and decisions filling the pages of the Official Journal. In a series of seminars for a panel on regional problems established by the American Society of International Law, he made a valiant effort to inform a group of American scholars on the workings of the "common agricultural policy." Riesenfeld's first published study appeared in 1965 as a part of a symposium on international trade, investment and organization assembled by the University of Illinois Law Forum.10 It is the first authoritative exposition in the English language of the treaty framework concerning the agricultural sector, the regulations governing the transition from national to Community market organization and the machinery for financing the staggering costs of the surpluses resulting from the emerging policy.

Riesenfeld's principal work in European agricultural law, however, is a massive annotation of the agricultural provisions of the Rome Treaty in a commentary on the Treaty scheduled to be published by the Columbia University Law School. Moreover, it represents the first English language attempt at a systematization of the case law of the Court of Justice in this field. The cases range from interpretations of the myriad of technical rules on agricultural levies, export subsidies and export and import documentation, to significant pronouncements of constitutional
