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REDISCOVERING RIESENFELD: THE MINNESOTA YEARS *

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The number of readers of this journal who took classes from Stefan Riesenfeld in 1938, the year he joined the faculty of the University of Minnesota Law School, are very few, and those who were taught by him in 1952, his last year at the law school, are not many more, but it is to them that this essay is—well, dedicated is too strong a word—offered. Only they can appreciate the modest aim of this brief essay.

In *Illustrious Immigrants*, Laura Fermi's 1968 study of the flight of European scientists, artists and intellectuals to the United States in the 1930s and early 40s, the name Stefan A. Riesenfeld does not appear. But he too was a refugee from fascism. Born in Breslau, Germany in 1908, he moved to Italy in 1932 to escape the increasingly repressive political climate of his native country. He arrived in the United States in 1935 and became a citizen in 1940. By this time he had two European law degrees and spoke three languages, French, Italian and German. He earned a law degree in 1937 from Boalt Hall, and then took a J.S.D. from Harvard. In 1938, he came to Minnesota and, except for service in the Navy from 1944 to 1946, he taught here until 1952, when he returned to Berkeley.

Dean Stein's 1980 history of the faculty of the University of Minnesota Law School has only three references to Riesenfeld. This is odd because there were few teachers who trod the halls of old Fraser Hall with his record of scholarship. It can be said with only a slight degree of exaggeration that no other law professor in history published more first rate articles in one journal in such a brief period as Stefan Riesenfeld published in the *Minnesota Law*

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Review from 1939 to 1952. By quick count, he published 14 articles and 17 book reviews. Fittingly, the law school's Rare Book Research Center is named after him.

We will take at random one article to illustrate Riesenfeld's style. In 1942, "Garnishment and Bankruptcy" appeared in the law review. Anyone who has wondered why some of the sharpest minds in the profession have been attracted to the struggle between creditors and debtors should glance at this article. It came to Riesenfeld's attention that local bankruptcy referees were ruling that a garnishment summons served more than four months before the debtor filed bankruptcy did not impose a lien on the property, a result he felt was contrary to state law on liens and to a provision in the Bankruptcy Act of 1898 (amended in 1938). The article commences with this problem but then makes a 55 page excursion into the history of attachment and its offshoot garnishment in the middle ages, in England, and finally its development from colonial and territorial days to the present in eleven states, including Minnesota. He concludes with several pages of advice to the bankruptcy bar. While the article is out-of-date (pre-judgment garnishment is no longer legal), it nevertheless demonstrates Riesenfeld's ability to dissect a current legal problem with the tools of history.

The article is unmistakably Riesenfeld's, but William E. Mussman is listed as the lead author. A footnote suggests Riesenfeld's generosity as a teacher and how he was moved by the spirit of war time: Mussman, the note editor of the law review, was on active duty in the Navy when the article appeared; Riesenfeld wanted to insure that his protégé's name survived the conflict and so gave him top billing. He did survive and they co-authored three more articles on suretyship and bankruptcy in the law review in the late 1940s.

Riesenfeld had the catholic interests of a renaissance man. He was never seduced by the siren song of constitutional law; instead he was interested in how law functions in society. Course-wise, this included creditors' remedies, bankruptcy, workers' compensation (he drafted Hawaii's comp act), administrative law and legal history. He published dozens of articles in continental legal journals—so many that the suspicion arises that, for many European legal scholars, American law in the latter half of the last century was what Stefan Riesenfeld said it was. He also was a master of international law, representing the United States three times before the International Court of Justice.

Riesenfeld formally retired from Berkeley in 1976, but he continued teaching there and at Hastings College of Law until his death on February 17, 1999, one day after completing grading exams in what surely was one of his favorite courses, bankruptcy.

After Riesenfeld's death, tributes appeared in the *California Law Review* and several international law journals. One memorial in the *Berkeley Journal of International Law* contained a catalogue of his writings: 32 books, 140 articles, 119 book reviews. It obviously is a list that Riesenfeld himself compiled. For those to whom this essay is offered, one entry stands out. At two pages, it undoubtedly is the shortest on the list. Perhaps he included it with his several hundred other publications in prestigious American, German and Italian law journals because he had fond memories of the occasion or perhaps, once on the list, he was just loath to remove it. All we know for sure is that it is the text of a talk he gave to the Realty, Probate and Trust Section of the Hennepin County Bar Association at Freddie's Café in downtown Minneapolis on November 3, 1941. Here is its complete citation:

Stefan Riesenfeld, "Judgment Liens on Local Realty,"
10 *The Hennepin Lawyer* 60 (December 1941).



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