

Appendix 2: Text of Proposed Amendments Submitted at 2004 Annual Meeting

- A. International Jurisdiction and Judgments Project
 - 1. Amendment by Professor Lynn Dennis Wardle
 - 2. Amendment by Professor Eric M. Freedman
 - 3. Amendment by Mr. Guy Miller Struve and Mr. K. King Burnett

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The following are proposed amendments that were submitted in writing and discussed but not specifically read into the record or fully summarized.

A. International Jurisdiction and Judgments Project

1. An amendment was submitted by Professor Lynn Dennis Wardle (see pages 133-135) to amend § 7(a) of Tentative Draft No. 2, on pages 81-82, to permit a court in the United States to decline to recognize or enforce a foreign judgment if the court finds that comparable judgments of courts in the United States would not be recognized or enforced in courts in the foreign state.

2. An amendment was submitted by Professor Eric M. Freedman (see pages 284-286) that the second paragraph of Comment *h* of § 5 of Tentative Draft No. 2, on page 54, be rewritten as follows, the proposed changes being noted in boldface:

... Thus, under the Act **a foreign judgment should be denied recognition where it arises out of a claim whose enforcement would violate public policy, e.g. a libel judgment obtained under standards inconsistent with the First Amendment, see Matusevitch v. Telnikoff, 877 F. Supp. 1 (D.D.C. 1995), on certification Telnikoff v. Matusevitch, 347 Md. 561, 702 A.2d 230 (1997), conformed to Matusevitch v. Telnikoff, 159 F.3d 636 (D.C. Cir. 1998); Bachchan v. India Abroad Publications, Inc., 154 Misc. 2d 228, 585 N.Y.S. 2d 661 (Sup. N.Y. 1992), or where the judgment itself constitutes a violation of public policy — for example in the award of excessive damages.**

“Consistent with the interchange with the Reporters on this subject during the 2003 Annual Meeting . . . , if they were to delete Reporters’ Note 6(d) (pages 67-70) there would be no further need for this amendment and it would be withdrawn.”

3. An amendment was submitted by Mr. Guy Miller Struve and Mr. K. King Burnett (see pages 298-304) to recommit the International Jurisdiction and Judgments Project (the “Project”) to the Council of The American Law Institute to consider the following possible alternatives, among others, for the Project:

(1) Placing the Project on hold until such time as the proposed Hague Convention on Jurisdiction and Foreign

Judgments in Civil and Commercial Matters is concluded and signed by the United States, with a view to revisiting the Project at that time; or

(2) Issuing the Project, in the form approved by the Institute at the 2004 Annual Meeting, as a Reporters' Study.