tives whose task, to Schachtschneider, is to espouse deals negotiated behind closed doors by committees and party organs. Political parties in general are superfluous in a republican polity because they constitute an obstacle to rational, deliberative discourse. A republican order also presupposes, according to Schachtschneider, homogeneity and the rootedness in a common political culture.

These are only some examples of the radical consequences Schachtschneider draws from his main thesis. Others are in abundance, and read together with Schachtschneider's scattered idiosyncrasies they may finally start to annoy you. For example, it is irritating that Schachtschneider persistently calls the eastern part of Germany (i.e. the former GDR) "Middle Germany" *("Mitteldeutschland")*, thus openly defying the definitiveness of the Oder-Neisse boundary (he calls the amended Preamble of the Basic Law which talks about the completed German unification, a "forgery of history" *("Geschichtsfälschung")*, p. 2 footnote 3). Also, after a while Schachtschneider's repeated mention of his own role in the constitutional complaint against the law ratifying the Maastricht Treaty (he represented the plaintiff) becomes redundant.

It is easy to see that Schachtschneider has serious problems with pluralist societies (he postulates that those Members of the Hamburg and Schleswig-Holstein Parliaments who voted for a law granting foreigners the right to vote on the non-federal level should lose their mandate, p. 947) and places unwarranted faith in the power of reasonable, rational discourse. Also, even if one could believe in the possibility of a good leadership through moral and scientific experts and elites, this is a good deal away from democracy which means, after all, governance by the people. It is peculiar how Schachtschneider, having established the oppositional character of discourse and authority, embraces the discursive solution, only to sometimes come dangerously close to the authoritarian side. The fact that he calls for a reinterpretation of fundamental rights as objective, not subjective rights will hardly leave the reader more reassured.

These critical remarks should not cloud the fact that Schachtschneider's book commands and deserves respect. It is highly original, well-written, clear in its message, and extremely well annotated. It constitutes a fresh look at old problems, and will doubtless inspire heated debate. The fact that it is controversial and, many times, goes too far, may thus be a virtue. The publishers priced the book at 98.- German marks, which makes it affordable to a wide readership. It deserves and needs extensive discussion.

Ulrich R. Haltern
Harvard Law School

Winn, David B. *European Community and International Media Law*. London, Dordrecht, Boston: Graham & Trotman/Martinus Nijhoff, 1994. Pp. xxxii, 594. Index. $146; £90.

This is a very useful reference work containing an enormous amount of information. It is a valuable asset in understanding the many issues with which it deals. A large proportion of the work describes how the major parts of Community jurisprudence apply to the media industry. In this collection of chapters the work contemplates the impact of Community laws concerning intellectual property, free movement of goods, freedom to provide services, freedom of establishment and competition. Harmonization measures are mentioned in these chapters and are then described individually in a later chapter. The stated aim is to provide sufficient detail to engage practitioners whilst also providing the background essential to those new to the subject.

The work also contains an excellent study of how fundamental human rights may impinge upon the media. This chapter deals mainly with Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms but also includes a description of the Convention's relevance in Community law. The broader international dimension is provided principally by a chapter which examines relevant international conventions, starting with the Berne Convention but including many that

are more specific. These are usefully included in an Appendix. The concluding chapter offers another perspective by providing a detailed description of programmes and initiatives which affect the operation of the media industry. The various aspects of the Community's MEDIA programme receive most attention in this section but programmes from a variety of sources are mentioned.

There is a great deal of information collected in this work. However, there are several respects in which it disappoints: it is not always as accessible as it could be; there are sections that are hard to follow; and in places it lacks the detail that the preface leads one to expect. These three reservations are taken in turn below. 1) The organization of the material according to legal categories gives the work obvious strengths. However, to fulfil its objective of being manageable for those who are new to the area, or who have only superficial knowledge of the legal categories, the book requires something more in the way of a general framework or guide. There is no elucidation of the scope of the work beyond its title and so one is never entirely sure of its reach. Literary works, for example, are only selectively discussed. An indication of how the sections are arranged and how they apply to sectors of the industry would also have been useful. 2) The text sometimes lacks clarity, primarily in those sections explaining the general background law. For example, the explanation of the free movement of goods leaves one turning to other works to find assistance and, occasionally, to verify the propositions made. On several occasions important distinctions are made only after they are required. One must wait until Chapter three to learn the distinction between media goods and services, a distinction presupposed in the earlier chapters. Moreover, Chapter eight explains, for one context alone, concepts referred to throughout the book. 3) The practitioner familiar with the basic framework might also be disappointed with the level of detail. The chapter on Community directives provides one example of this. It amounts to little more than a paraphrase of the directives themselves, which appear in an Appendix.

The text relies almost exclusively upon reported cases, without the extrapolation that might be provided, for instance, by hypothetical examples. There are many points at which the reader would benefit from the author's interpretation or opinion. Instead, the Court's ambiguous rulings are on occasion simply repeated without comment. On the other hand, there are also points in the work where opinion and analysis are merged and where a greater degree of circumspection might have been warranted. It is stated, for example, that the Court will condemn any undertaking which discriminates in favour of domestic goods. Whatever the merits of this position, it would not be regarded by many as settled Community law.

Another feature of the depth of analysis presented in the book is its lack of predictability. For example, the common origin doctrine of trade mark jurisprudence is explored at length whilst proposals for a directive concerning satellite broadcasts receive little attention. Despite these reservations, which together deprive the work of some polish, it remains an informative and interesting addition to any library.

G. R. Milner-Moore

Decisions of the Bundesverfassungsgericht – Federal Constitutional Court – Federal Republic of Germany, Vols. I/I and I/II: International Law and Law of the European Communities 1952-1989. Published by Members of the Court. Baden-Baden: Nomos Verlagsgesellschaft 1992, 766 pages, index.

Some people undertake the admirable task of learning French in order to read the works of Rousseau, Montesquieu, or, later, Foucault or Derrida in their original version. It is even said that a few have decided to put up with the immense compound words, the opaque grammatical rules, and the confusing order of words that are so peculiarly German, to be able to enjoy Kant, Hegel, Weber, or Habermas untranslated. In each case, the pleasure seems to outweigh the considerable pains. In contrast, the motivational pull of German court decisions to induce non-German