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The Legal Effects of Recognition of International Law, by John G. Hervey (1928)

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debtor will release the surety, the principal case is no doubt correctly decided and in line with the practically unanimous holding of the authorities. However, aside from a reference to the sufficiency of the findings of the trial court, the case unfortunately leaves the reader in the dark as to the grounds on which the surety was exonerated, viz., whether the creditor (1) had a duty to disclose, (2) was guilty of wilful misrepresentation or non-disclosure, or (3) had reasonable grounds to believe that the debtor had used the delivery order to defraud the surety which would suggest collusion between the debtor and creditor. E. U. D.

BOOK REVIEWS

THE LEGAL EFFECTS OF RECOGNITION IN INTERNATIONAL LAW. By John G. Hervey, Philadelphia; The University of Pennsylvania Press, 1928, pp. 170.

In this handsome and readable volume, the author deals with the legal effects of recognition in international law as interpreted by the courts of the United States. It includes as its chapter headings the following: an introduction; preliminary considerations; recognition by political departments; juristic status of unrecognized governments; the retroactive effect of recognition; recognition and legal capacity; extraterritorial operation of acts of recognized and unrecognized governments; and a conclusion. In addition, there is a table of cases, a selected bibliography, and an index.

Seldom has the reviewer had the privilege of examining a book of this sort which has so much to commend and so little to criticize. To be sure, there are interpretations of some of the upwards of 200 cases analyzed and discussed by the author which are open to some question. But the question lies in the interpretation, where there is ample and legitimate room for difference of opinion. The handling of the cases, the statement of facts, and the summary and digest of the decisions are uniformly accurate. Moreover, the conclusions of the author are well reasoned.

The study is devoted essentially to the recognition question as interpreted by the courts of the United States. This restriction of the study is made clear in the title page; but the impression might prevail that it treats of the general legal effects of recognition. It is an unfortunate tendency to limit studies in international law to American sources and American practice. This is so from two standpoints. First, it gives some support, although unconscious and unintended, to the proposition, advanced in some quarters, that there is a distinct system of American international or public law. Of course there is no such thing, either for the United States, or for the western hemisphere. Then investigators and readers should think in terms of a general international law, applicable to the whole of the international society. Would it not be better, for example, to take a section of the recognition question, and to carry it through all international law sources, including the court decisions of the leading nations of the world?

The study, while not comparative, has positive merits. The author, while bearing in mind the relation of his study to the other parts of the recognition question, has kept his subject and his goal steadily in mind. The recognition problem is one of policy, of practice, and of law. Goebel's *Recognition Policy of the United States*, while not down to date, is a satisfactory account of the recognition policy of the government. There is no book on the practice of recognition, and one is needed. The book under review supplies the need for a volume on the law of recognition. International law, particularly in schools of law and in graduate courses, should more and more distinguish between what is policy, what is practice, and what is law. And especially in the United States, the law depends upon the decisions of the courts. In international law, what the Supreme Court has said is binding until it chooses to speak again. It is time to insist on the proposition that investigations in policy or practice belong to the field of international relations, whereas studies in international law are peculiarly legal studies. In this respect, Mr. Hervey's study is all it should be.

The attitude of the government of the United States toward the Soviet

government, and the legal effects growing out of its failure to recognize the Russian government, is of particular interest. Clearly, international law or relations should discourage rather than aid any such attitude toward international obligations as the Soviet government has assumed. International penalties, political and legal, should attach to a government so remiss in its attitude toward those necessary conditions of good faith and covenant-keeping which are the foundations of international intercourse. Our government has acted in keeping with this principle, and our courts have rendered their decisions in keeping with the action of the political department. Chief Justice Marshall, our greatest expounder of the principles of international law, always gave effect to private rights and he also regarded public obligations as succeeding. Nor should recognition, in policy, practice, or law, operate to the benefit of a repudiating state. The question Russia would have us discuss is whether or not her repudiation is just and legal. She does not want to discuss her guilt in the matter. The person accused of crime would, if he could, shift the case from one of his guilt or innocence to whether or not the thing of which he is charged is justifiable and actionable. Our international law and morality must go hand in hand with our local and national law and morality.

Mr. Hervey has made a genuine contribution to the literature in international law. It is hoped that more studies of this type will be written by scholars in this field.

CHARLES E. MARTIN.

WORKING MANUAL OF ORIGINAL SOURCES IN AMERICAN GOVERNMENT. By Milton Conover, Baltimore: Johns Hopkins Press, 1928, a revised and enlarged edition, pp. ix, 167.

A case system for the study of politics. In the words of the author, "these problems aim to introduce the student to the general field of original sources in the American Federal system, including its component National, State, Municipal and Local units." "These problems aim further to cultivate in the student the creative instincts and to accord a constructive expression of the productive energies." These may be repressed as we well know by too much text-book reading and note-taking. Professor Conover has given us a valuable problem study. Many of us have carried out similar work and this manual gives us additional ideas and material. Local University conditions will largely determine whether such a plan is possible to the extent that this work has carried it. The work is of most value in the national sphere and of least value in the municipal field; in fact the local problems scarcely indicate their importance both locally and to the whole, nor do they lead one to the important problems of the state and its subdivisions. However, with such a volume obtainable there is little excuse for the cut-and-dried text-book and note-taking class in the fields covered in Professor Conover's Manual.

GRANVYL G. HULSE.

BOOKS RECEIVED

- INTERNATIONAL PROTECTION OF TRADE MARKS BY THE AMERICAN REPUBLIC. By Stephen P Ladas, Cambridge: Harvard Press, 1929, pp. xix, 136.
- WORKING MANUAL OF ORIGINAL RESOURCES IN AMERICAN GOVERNMENT. By Milton Conover, Baltimore: Johns Hopkins Press, 1928, pp. ix, 167.
- JURISDICTION IN MARGINAL SEAS. By William E. Masterson, New York: MacMillan Co., 1929, pp. xxvi, 423.
- LAW FOR ENGINEERS AND ARCHITECTS. By L. P Simpson and E. R. Dillavou, St. Paul: West Publishing Co., pp. xvii, 633.