

RESPONSIBILITY OF STATES FOR ACTS OF
UNSUCCESSFUL INSURGENT
GOVERNMENTS, by Haig Silvanie. Columbia
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Chapter VI is an innovation in the federal jurisdiction field. It is a chapter devoted to the civil procedure in the United States District Court. This chapter does not deal with all of the rules of civil procedure. However, the rules not dealt with in Chapter VI are covered in other interrelated topics in the work.

The remaining chapters are devoted to the relations of state and federal courts; the appellate jurisdiction of the Circuit Court of Appeals; the appellate jurisdiction of the United States Supreme Court and the original jurisdiction of the United States Supreme Court. No cases are given dealing with criminal procedure in the federal courts.

The appendix contains the text of the rules of civil procedure for the district courts of the United States, and also the notes prepared by the advisory committee on the rules.

It is now possible to teach a course in federal jurisdiction and procedure that is exactly what its name implies. With the use of the Dobie and Ladd casebook the jurisdiction and procedure in the United States courts can be adequately covered in the law school in a most practical manner.

The reviewer has adopted this casebook for his course. The work is one that the student should keep for future reference; he will find it useful in the practice of law.

OLIVER P. CARRIERE*

RESPONSIBILITY OF STATES FOR ACTS OF UNSUCCESSFUL INSURGENT GOVERNMENTS, by Haig Silvanie. Columbia University Press, New York, 1939. Pp. 223. \$2.75.

This is a useful study of an interesting as well as important phase of international law. It is particularly valuable for its analysis of the decisions of international mixed claims commissions. These decisions, together with those of national courts, and the correspondence of foreign offices, form the basis of the author's conclusions.

In view of the "settled rule of international law that the state is responsible for acts of insurgent governments which ultimately succeed in establishing themselves in power,"¹ the author in this volume attempts "to state the rule of international law dealing

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with state responsibility for acts of unsuccessful insurgent governments and to point out changes, past developments, and the present tendencies in the law."² He has divided the subject into the following five chapters: (1) Insurgent Loans; (2) Concessions and Alienation; (3) Acts of Government Routine; (4) Taxes and Customs Duties; and (5) Tortious Acts.

The author concludes from his study of the cases "that the state is not bound by loans made to unsuccessful insurgents for purposes of the civil war in which they were engaged."³ However, it is his opinion that if the loan is made to the unsuccessful insurgent government "for a purpose of public utility, as contrasted with an insurgent loan used for civil war purposes,"⁴ there is no good reason why the state is not responsible. Concessions made by unsuccessful insurgents "which are not done in aid of rebellion and are not detrimental to the state, especially when the concessionaire or purchaser has acted in good faith and has involved himself in heavy expenditures and improvements enriching the state"⁵ are exceptional and for them the state may be held responsible. Apparently the author agrees with the view that the state would be held responsible for most acts of unsuccessful insurgent governments when such acts are merely routine in the operation of the machinery of government.

In the last chapter, which comprises a large part of the book, the author states that "It is a settled rule of international law that the state is not responsible for injuries to foreign persons, and damages to foreign property inflicted during an insurrection or a civil war by unsuccessful insurgents whose conduct it could not control, and where there is no proven negligence or a want of due diligence on the part of the titular government in preventing the injury or in suppressing the insurrection."⁶ He points out, however, that there are exceptions to the general rule of non-liability and discusses those most commonly urged. These are: (1) negligence, or fault, or lack of due diligence on the part of the titular government in regard to suppressing insurrections, preventing injury, or punishing offenders; (2) responsibility under a "special protection" clause of a preexisting treaty; (3) responsibility for confiscated property used by insurgents for a public purpose; (4) responsibility for granting amnesty; (5) responsibility under an

2. P. 8.

3. P. 19.

4. P. 30.

5. P. 80.

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agreement between the government and insurgents; and (6) responsibility under a protocol of arbitration.

Although the author has done a good job of analyzing the various aspects of the subject, the book has some minor defects. The reviewer felt that there is too much repetition. In several places it was felt that the writer is too much the advocate. For example, in the discussion of the obligation of Soviet Russia for the loans made by the United States government in 1917, it is said, "For the purpose of the American loan of 1917, which was used for a national object and was not detrimental to the state, the Provisional Government therefore should be regarded as acting for and in the name of Russia although opinion may differ as to whether it was the government or not. On this score, also, it thus appears that the claim of the United States is justified on every ground of law and fact." This sounds like the argument of a state department lawyer.

A short summary chapter would have enhanced the value of this study. A separate and complete table of cases is also lacking. As for the footnotes, this reviewer finds it helpful to have the date included in a case citation, especially when the decision is that of a national tribunal. In most citations to cases the dates were omitted.

This book does not inspire superlative praise; yet the author treats his subject in a scholarly manner. He has a pleasing style and has written an interesting book.

JAMES J. LENOIR*

LOS MODOS DE INICIACIÓN DEL CONTRALOR JUDICIAL DE LA CONSTITUCIONALIDAD DE LAS LEYES EN LOS ESTADOS UNIDOS, by George H. Jaffin; and LOS MODOS DE INICIACIÓN DEL CONTRALOR JUDICIAL DE LA CONSTITUCIONALIDAD DE LAS LEYES EN LA REPÚBLICA ARGENTINA, by Roberto Pecach. Ediciones de la Revista Universitaria "Jurídicas y Sociales," Buenos Aires, 1939. Pp. 45.

These are two short articles written in Spanish and obviously intended for the Argentine bench and bar, although the information given with regard to the development of the judiciary in the South American republic, might be of some interest to the student of comparative law.

Beginning with the land mark case of *Marbury v. Madison*,

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