

12-1929

The Legal Effects of Recognition in International Law, by John G. Hervey

N D. Houghton
University of Arizona

Follow this and additional works at: <http://www.repository.law.indiana.edu/ilj>

 Part of the [Comparative and Foreign Law Commons](#), and the [International Law Commons](#)

Recommended Citation

Houghton, N D. (1929) "The Legal Effects of Recognition in International Law, by John G. Hervey," *Indiana Law Journal*: Vol. 5: Iss. 3, Article 5.

Available at: <http://www.repository.law.indiana.edu/ilj/vol5/iss3/5>

This Book Review is brought to you for free and open access by the Law School Journals at Digital Repository @ Maurer Law. It has been accepted for inclusion in *Indiana Law Journal* by an authorized administrator of Digital Repository @ Maurer Law. For more information, please contact wattn@indiana.edu.



JEROME HALL LAW LIBRARY

INDIANA UNIVERSITY
Maurer School of Law
Bloomington

THE LEGAL EFFECTS OF RECOGNITION IN
INTERNATIONAL LAW*

The main title as here given is qualified by a secondary clause, "As Interpreted by the Courts of the United States." But the work is really a study based upon both British and American court decisions. The large number of cases cited are discussed thoroughly and clearly, yet it seems regrettable that no attention is given to a number of decisions of continental European courts pertaining definitely to the points involved in the study. No attention is given, either, to the decisions of Arbitral Tribunals or Claims Commissions, it being explained that they also are outside the scope of the proposed study. Yet the author does venture in a paragraph on page 10 to refer to Chief Justice Taft's opinion in the British-Costa Rica Arbitration of 1923 to the effect that Great Britain was not estopped by refusal to recognize the Tinoco Government from pressing claims later on behalf of British subjects against the State of Costa Rica for actions of the unrecognized Tinoco regime. But no reference is made to the cases of *Shultz v. Mexico*, Moore, *Arbitrations*, Vol. III, p. 2973 (1871), *Jansen v. Mexico*, *Ibid.*, p. 2902 (1871), and *Jarvis v. Venezuela*, Ralston, *Venezuelean Arbitrations 1903*, p. 145 (1903), in which other arbitral bodies have held that failure to recognize a de facto government may operate to estop later assertion of claims growing out of its acts by a non-recognizing state.

The material presented in the book might, of course, be organized in somewhat different ways by different authors, but Dr. Hervey has organized it quite effectively under five main chapters: Recognition by the Political Departments; Juristic Status of Unrecognized Governments; Retroactive Effect of Recognition; Recognition and Legal Capacity; and, Extraterritorial Operation of Acts of Recognized and Unrecognized Governments. Most of the essentially important points which have arisen are covered in one place or another. The first paragraph in the Preface leads one to expect a clear treatment of the "effects of recognition upon the determination of individual rights and obligations." And it is really a bit disappointing to find so little emphasis on the matter of *private rights*. The emphasis is so strictly upon *recognition* as to becloud at times the real causes for the actions, making it perhaps unnecessarily hard to follow in places.

**The Legal Effects of Recognition in International Law*, by John G. Hervey. University of Pennsylvania Press: Philadelphia. 1928. pp. xiv, 170. Price \$3.00.

One misses any discussion of the effect of recognition upon the matter of the Responsibility of the State for the Acts and Obligations of its Governments. Perhaps the question is outside the limits which the author set up for himself, yet, unquestionably, it is one of the most significant phases of the legal effects of recognition in International Law.

No serious fault is to be found with Dr. Hervey's treatment of the subject-matter within the limited scope of the study, but perhaps one may be pardoned for regretting that the scope of the work was so distinctly restricted, especially, in view of the implications of the main title of the book. The work brings together a well written presentation of a careful analysis of the principal British and American cases on the subject. It is a valuable asset to students of International Law and practicing lawyers in the field, and constitutes a distinct contribution to the literature of law and political science.

N. D. HOUGHTON.

University of Arizona.