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Book Reviews

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BOOK REVIEWS

HANDBOOK OF INTERNATIONAL LAW. George Grafton Wilson. Third Edition. Hornbook Series. St. Paul, Minn.: West Publishing Co. 1939. Pp. xxiv, 623.

This new edition by Professor Wilson, formerly Professor of International Law at Harvard, is a fine illustration of the combination of two different theories of international law: the classical theory laid down by Grotius in 1625 and the more modern doctrine based upon customary law and treaties, which was evolved at a later date. It is in every respect a thoroughly satisfactory piece of work.

It will be helpful in considering this book to take occasion to consider briefly the origin of international law, and to show how the two different theories above referred to have come into existence and the extent to which they have been combined in the present work. In considering Grotius' treatise on international law, it is important to keep three facts in mind: first, the date of its issue; second, the place of issue; and third, the essential content of the subject matter.

First, as to matter: It was one of the earliest works after the close of the medieval period in which a metaphysical and theological point of view was replaced by a rationalistic point of view. For Grotius was certainly one of the great rationalists of the seventeenth century.

In the second place, it was issued in Holland and we cannot get the full force and effect of this unless we remember that that little country wedged in between France and the Empire was compelled to find a basis for international law elsewhere than in armed military force. It was a substitute of legal reasoning for violence.

Third, as to the content. Grotius based his treatise, which was entitled "On the Law of Peace and War" upon what he called the *jus naturale*. He defines this law, as follows: "It is the dictate of right reason, indicating that any act, from its agreement or disagreement with rational nature, has in it moral turpitude or moral necessity, and consequently such act is either forbidden or enjoined by God, the author of nature." The law of which Grotius speaks is the direct descendant of *jus gentium* of the Roman law.

The second element, which is to be combined with the natural law referred to by Grotius, is what we may call the realistic or positivist point of view, which is based entirely upon customs and treaties between nations.

It must be recalled that Grotius' work dealt entirely with the law of war and peace and that very much of what we call international law today was not at that time conceived of. The author in his treatise, in addition to covering the law of peace and war, has treated at length the following topics, which may be said to have had their origin in the realistic theory of international law:

First: The rights and obligations of persons considered as such and

not merely as citizens of states, those human beings with rights and obligations and for whose benefit international law exists, if it can be said to have any reason for existence at all.

Second: Property and domain. In other words, real and personal property treated as something separate and distinct from the rights of citizens in time of peace.

Lastly and most important of all, perhaps, the general subject of jurisdiction, which in public international law runs a course parallel in almost every respect to the subject of jurisdiction in private international law or conflict of laws.

In addition to these important subdivisions, new matter has come into existence during the last quarter of a century, which requires more particular treatment; for example, aerial domain, wireless telegraphy and development of radio systems, postal service, trade-marks, and copyrights.

With the addition of all this new matter, we have here a book which will prove to be extremely valuable for students who desire to find in one place an adequate treatment of this important branch of law.

CHARLES C. PICKETT[1]

LAW OF LANDLORD AND TENANT — WITH FORMS. John Emerson Bennett. Charlottesville, Virginia: The Michie Company, 1939. Pp. xxi, 809.

The book contains slightly more than five hundred pages of text material exclusive of forms and index. In this brief space the author has succeeded remarkably well in concisely covering the topics ordinarily treated under the law of landlord and tenant. Notwithstanding the brevity of the text, there are a number of novel features, not the least important of which is the development of historical sequences of the law of landlord and tenant. An introductory chapter is devoted to bridging the gap between the feudal and modern law. Among the topics discussed in this chapter are found early restraints on alienation, parliamentary changes, colonial charters, and communal titles as they were developed in a limited way in the American colonies. The text in this chapter is almost entirely supported by citations from early New York and Pennsylvania decisions, an examination of which indicates that they were based upon English legal literature.

The subject matter of the remaining chapters is concise and, considering their brevity, is surprisingly complete and exhaustive. The text statements are supported by numerous citations from federal and state courts. The primary objective of this work seems to be the development and emphasis of underlying basic principles rather than a mere statement under appropriate topics of what the courts have decided. This feature alone should make the work invaluable to the busy practitioner, as it not only enables him to find the law quickly but also should prevent the blind following of precedent which in so many cases leads to funda-

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mental error and in others a complete failure to make out a case by adopting an erroneous theory.

While due attention is given to leases as being instruments for creating estates, there is proper emphasis on their contract aspects. Recognition is also given to the fact that the law of landlord and tenant is a cross section of numerous other branches of the law by including chapters on liability for nuisances, negligence, fraud or deceit in lease cases, eminent domain, receivers, mortgage foreclosures, mechanic liens, bankruptcy of tenant, liens and other securities for rent and numerous other more or less recent developments of the law.

There are approximately 160 pages of appendices containing lease forms, many of which are highly specialized. Every statement in the text is made easily available by a copious index of 125 pages providing more than 200 topic headings.

As a concise text book for practitioners and for collateral reading by law students in connection with the proper use of a case book, this recent treatise may be recommended without hesitation or reservation.

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