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## Review of “Responsibility of States for Acts of Unsuccessful Insurgent Governments,” By Haig Silvanie

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that their material is too narrowly focused upon one viewpoint. Even if this criticism is valid, it must be admitted that it is a viewpoint which eminently deserves presentation, and that it is here presented in a manner both scholarly and stimulating.

HENRY WEIHOFEN.†

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RESPONSIBILITY OF STATES FOR ACTS OF UNSUCCESSFUL INSURGENT GOVERNMENTS. By Haig Silvanie. New York: Columbia University Press, 1939. Pp. 223.

Probably because there has been so much evidence of apparent irresponsibility on the part of states in the family of nations in recent decades, the subject of the general responsibility of states under international law has become increasingly prominent in recent writing and discussion. Dr. Silvanie under the direction of Professor Joseph P. Chamberlain of Columbia University has undertaken a study of one phase of the problem and in the volume here under review has reported his results.

The study is based primarily on the decisions and opinions of international arbitration and claims commissions, to which frequent references are made in the footnotes. The principal sources are also listed in a brief bibliography at the end of the volume; but several outstanding recent contributions both on the general field of state responsibility and on the work of particular claims-commissions, especially the recent claims-commissions of the United States and Mexico, are strangely nowhere mentioned.

The value of Dr. Silvanie's treatise is not in the presentation of any new principles, conclusions, or procedures but rather in the assembling, unifying, and further substantiating of what was already pretty generally accepted. In simple and clear style he covers the subjects of Insurgent Loans, Concessions and Alienations, Acts of Government Routine, Taxes and Customs Duties, and Tortious Acts.

The theses stated and supported by the documentation may be briefly summarized:

1. A state is not liable for either private or public foreign loans to unsuccessful insurgents for use in support of the rebellion or insurgency, unless the insurgents have succeeded sufficiently to establish themselves as the *de facto* government at the time when the loan is made.
2. A state is not bound by contracts, concessions, or alienations involving its public domain made by unsuccessful insurgents.
3. In the fixing of liability it is a well established practice to distinguish between the insurgent government and the permanent administrative machinery or civil service; between the acts of the insurgent government in its personal or political character and the acts of government routine; between the acts for carrying on the rebellion and the acts of normal administration. For the one the state has been consistently held not liable; for the other it has as consistently been held liable.
4. When, as a result of compulsion, taxes or duties have been paid to

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unsuccessful insurgents, the taxpayers are not liable to a duplicate payment when order is restored.

5. A state is not liable for incidental damages or injuries caused by insurgents if the state used due and reasonable diligence to give protection but still failed to control the situation.

In the publication of this volume Dr. Silvanie has thus supplied a very useful brief and substantially accurate survey and summary without any pretense to an exhaustive and authoritatively definitive treatise.

ARNOLD J. LIEN.†

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HANDBOOK OF INTERNATIONAL LAW. By George Grafton Wilson. Third edition. St. Paul: West Publishing Company, 1939. Pp. xxiv, 623.

The present edition of this familiar hornbook by George Grafton Wilson, Professor Emeritus of International Law in Harvard University, appears twelve years after the second edition; the first edition appeared in 1910. It contains fifty-three more pages, partly the result of an improvement in type and format. In the table of cases, for example, only 35 instead of 67 cases are listed on one page. The type and paper are both of better quality.

It is always a difficult problem to condense into brief compass any legal subject; it is particularly difficult with a subject like international law where national variations on accepted norms can be accurately portrayed only in extensive monographs. No two persons would be expected to agree upon choices for inclusion or exclusion. Criticisms pertinent to a treatise are inapplicable to a hornbook. Many suggestions of the reviewer would accordingly be criticism of any hornbook rather than of this particular one. The reviewer notes, for example, that the subject of international organization is disposed of in two pages; that the Pact of Paris receive but one bare passing mention (its text was included in an appendix to the second edition); that the reference to the 1930 London rules governing visit and search by submarines gives no indication of the fact that they have been accepted by some 48 states through the 1936 Protocol; that the three pages 155-158 on exemptions from jurisdiction give little indication of the modern trend toward distinguishing between acts *jure imperii* and *jure gestionis*. On page 133 the revision of the United States law whereby citizenship may be derived through the mother is not mentioned, though it is covered in Professor Wilson's 9th (1935) edition of Wilson and Tucker's *International Law*. On page 86, a reference to the Trail Smelter Reference might have been more helpful than the citation of *Hudson County Water Co. v. McCarter*.<sup>1</sup> The publishers will wish to correct at the next opportunity the transposition of two paragraphs of type on page 256.

In accordance with the policy of the second edition, footnotes have been reduced to a minimum but a bibliography (arranged by authors) occupies six pages.

The personal opinion of the reviewer is that those who use a book of

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1. (1908) 209 U. S. 349.