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### Prize Cases Decided in the United States Supreme Court, 1789-1918

Edwin D. Dickinson

*University of Michigan Law School*

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## BOOKS AND PERIODICALS

PRIZE CASES DECIDED IN THE UNITED STATES SUPREME COURT, 1789-1918: Including also cases on the instance side in which questions of Prize Law were involved. Prepared in the Division of International Law of the Carnegie Endowment for International Peace under the supervision of James Brown Scott, Director. Three volumes. New York: Oxford University Press, American Branch, 1923. Pp.: I, xxxii + 657; II, vii + 659-1411; III, vi + 1413-2182.

It seems something of a paradox that our first and only complete collection of Supreme Court prize decisions should be published at last under the auspices of an endowment for international peace. Prize cases and peace suggest an unnatural association. Yet they have at least a certain relation to international affairs in common. And it has been the admirable purpose of the Carnegie Endowment to promote peace by rendering more available all authoritative sources of information about international affairs.

There is more in common, indeed, between peace and prize cases than a mere matter of contact with international affairs. The development of international law, both as a general system and as a part of municipal law, has been influenced by the development of prize law. "The law of prize is part of the law of nations" (*The Rapid* (1814) 8 Cr. 155; I, 474, 479). "International law is part of our law, and must be ascertained and administered by the courts of justice of appropriate jurisdiction, as often as questions of right depending upon it are duly presented for their determination" (*The Paquete Habana* (1900) 175 U. S. 677; III, 1920, 1938). It may be permissible to regard these rather sonorous dicta with a degree of skepticism, but the influence of the ideas which they express is hardly to be denied. So the reports of prize cases are substantially more than a mere repository of precedents in a specialized and normally dormant branch of the municipal law.

The volumes at hand have been prepared with the skill and good taste which we have come to expect of the Carnegie Endowment and its publishers. There is an introduction sketching the genesis of national prize jurisdiction. The collection begins with the famous case of *Glass v. The Sloop Betsey* (1794) 3 Dall. 6, in which it was held that the district courts are courts of prize without being specifically constituted as such, and concludes with *The Appam* (1917) 243 U. S. 124, our nearest approach to a prize case during the period of the World War. It comprises a vast amount of invaluable source material on such topics as belligerency, blockade, commercial domicile, continuous voyage, contraband, enemy character, insurgency, neutrality, ship's papers, trade with the enemy, visit and search, and the like. In all there are reports of 341 cases printed chronologically, with the eight opinions of the Court of

Appeals in Cases of Capture, 1781-1787, included in an Appendix. There is an alphabetical list of cases reported, an alphabetical list of cases cited, and an excellent index of 43 finely printed pages, the work of Henry G. Crocker, Esq.

The reports, including arguments of counsel, have been reproduced without abridgment and with marginal indications of pages in the official series. Type and page are good—better, indeed, than in some of the official series, although not quite so satisfactory as those in use in the current Supreme Court reports.

In the preface Dr. Scott suggests two reasons for regarding the publication of the prize cases as timely: first, the likelihood that the Permanent Court of International Justice may be called upon to decide prize questions; and second, the re-examination of German prize court decisions for which provision was made in Art. 440 of the Treaty of Versailles. Neither of the reasons suggested has much vitality at the present time. The re-examination of German prize decisions has apparently fallen by the way and it seems quite unlikely that the proposal will ever be revived. It is devoutly to be hoped that the stability and usefulness of the Permanent Court of International Justice may never be jeopardized by the exercise of jurisdiction in prize. Probably Dr. Scott attached no great importance to the suggestions. Certainly the publication of these useful volumes requires no justification of timeliness.

University of Michigan.

EDWIN D. DICKINSON.

LE DROIT PENAL INTERNATIONAL et sa mise en œuvre en temps de paix et en temps de guerre. Par Maurice Travers. Paris: Librairie de la Société du Recueil Sirey. Tome IV, 1921, pp. 766; Tome V, 1922, pp. 757.

The first three volumes of this work, noted in this REVIEW in the December, 1923, number, promised a treatise of first authority on international criminal law. Last year the Limantour Prize was awarded it by the Academy of Moral and Political Sciences.

Three main divisions compose the general plan of the treatise: Determination of the law applicable to the repression of a given criminal act; application of criminal law, considering the procedure in the territory of the state of the forum and the acts accomplished on foreign territory in execution of or to permit the application of foreign criminal law; problems of international co-operation and extradition.

M. Travers is no purveyor of sheer juristic theory. His ideas on the substantive problems of the conflict of laws flow from a conception of criminal law as a means of protecting the general interests of the state, and his views on the procedure involved are based on a conception of extradition as an act of sovereignty and of international co-operation as a sort of enlightened self-interest.

Universal mutual aid and liberality of treaty construction constitute the motif of this work. Extradition should be extended to cover every act considered a crime by the law of the demandant state, regardless of the place of infraction and regardless of the