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INTERNATIONAL LAW — VALIDITY OF SOVIET DECREES — The Soviet government, by a nationalization decree, confiscated all oil lands in Russia, among them the land of plaintiffs, Russian nationals, and sold oil extracted therefrom to defendant. Plaintiffs sought an accounting, claiming that the confiscatory decrees of the unrecognized Soviet government and seizure of oil lands thereunder had no legal effect. A communication from the State Department was introduced: "The Department of State is cognizant of the fact that the Soviet regime is exercising control and power in territory of the former Russian Empire and the Department of State has no disposition to ignore that fact. The refusal of the government of the United States to accord recognition to the Soviet regime is not based on the grounds that that regime does not exercise control and authority in territory of the former Russian Empire, but for other reasons." *Held*, plaintiff could not recover. *M. Salimoff & Co. v. Standard Oil Co. of New York*, 262 N. Y. 220, 186 N. E. 679 (1933).

"Every sovereign State is bound to respect the independence of every other sovereign State, and the courts of one country will not sit in judgment on the acts of the government of another done within its own territory."¹ No issue would arise in the instant case, therefore, if the Soviet government were recognized by the United States. But there is authority for the proposition that confiscation by an unrecognized government has no effect in law.² The principal case rejects that view, and shows a strong disposition to respect the validity of Soviet decrees concerning internal questions of private right despite non-recognition by the political department. The court says, "As a juristic conception, what is Soviet Russia? A band of robbers or a government? We all know that it is a government. The State Department knows it, the courts, the nations, and the man on the streets. If it is a government in fact its decrees have force within its boundaries and over its nationals. . . . The courts may not recognize the Soviet government as the *de jure* government until the State Department gives the word. They may, however, say that it is a government, maintaining internal peace and

¹ *Underhill v. Hernandez*, 168 U. S. 250 at 252, 18 Sup. Ct. 83 at 84 (1897).

² *Luther v. Sagor*, [1921] 1 K. B. 456, Annual Digest (1919-1922) Case No. 26. Justice Cordozo states in *Sokoloff v. National City Bank*, 239 N. Y. 158, 145 N. E. 917 (1924), that confiscation by an unrecognized government has no other effect in law than seizure by bandits or by other lawless bodies, citing as authority *Russian Commercial and Industrial Bank v. Comptoir d'Escompte de Mulhouse*, [1923] 2 K. B. 630; (1925) A. C. 112; *Banque International v. Goukassow*, [1923] 2 K. B. 682. It is doubtful whether such a strong interpretation can be placed upon these cases.

³ *M. Salimoff & Co. v. Standard Oil Co. of N. Y.*, 262 N. Y. 220 at 227, 186 N. E. 679 at 682 (1933).

order, providing for national defense and the general welfare, carrying on relations with our own government and others. To refuse to recognize that Soviet Russia is a government regulating the internal affairs of the country is to give to fictions an air of reality which they do not deserve. . . . The legitimate conclusion is that the existing government cannot be ignored by the courts of this state, so far as the validity of its acts in Russia is concerned. . . .”³ It is submitted that the New York court has receded from the position it assumed in *Russian Reinsurance Co. v. Stoddard*⁴ where it stated that, until recognition, it would not regard acts of the Soviet government as law. The doctrine of the principal case was announced in substance by a lower New York court which held that the validity of decrees affecting private rights was a judicial question which does not concern the foreign relations of the United States.⁵ While the New York court is not yet ready to give effect to all decrees in this situation,⁶ as advocated by writers,⁷ the decision shows a commendatory trend in that direction.

L. E. H.

⁴ 240 N. Y. 149 at 158, 147 N. E. 703 at 705 (1925). See also *Pelzer v. United Dredging Co.*, 118 Misc. 210, 193 N. Y. S. 675 (1922).

⁵ *Werenjchik v. Ulen Contracting Corp.*, 229 App. Div. 36, 240 N. Y. S. 619 (1930), *aff'd* 255 N. Y. 56, 173 N. E. 921 (1930).

⁶ The court distinguished the *Salimoff* case from *Petrogadsky Mejdunarodny Kommerchesky Bank v. National City Bank*, 253 N. Y. 23, 170 N. E. 479 (1930), and *First Russian Ins. Co. v. Beha*, 240 N. Y. 601, 148 N. E. 722 (1925), where it held that Soviet decrees liquidating Russian banks and insurance companies had no extra-territorial effect. See 26 AM. J. INT. L. 261, 269 (1932), and *Habicht*, “The Application of Soviet Laws and the exception of Public Order,” 21 AM. J. INT. L. 238, 252 (1927) for criticism of the language of *Sokoloff v. National City Bank*, 239 N. Y. 158 at 166, 145 N. E. 917 at 919 (1924), where Soviet seizure of funds of the National City bank in Russia was not allowed as a defense to a suit for non-payment of money owed plaintiff in Russia.

⁷ *Borchard*, “The Unrecognized Government in American Courts,” 26 AM. J. INT. L. 261 (1932); *Fraenkel*, “The Juristic Status of Foreign States, Their Property and Their Acts,” 25 COL. L. REV. 544 (1925); *Connick*, “The Effect of Soviet Decrees in American Courts,” 34 YALE L. J. 499 (1925); *Dickinson*, “The Unrecognized Government or State in English and American Law,” 22 MICH. L. REV. 29 (1923). See also *Dickinson*, “Recent Recognition Cases,” 19 AM. J. INT. L. 263 (1925); *Dickinson*, “Recognition Cases, 1925-30,” 25 AM. J. INT. L. 214 (1931); *Tennant*, “Recognition Cases in American Courts, 1923-30,” 29 MICH. L. REV. 708 (1931).