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International Law--Withholding of Political Recognition--Suit by Russian Corporation in Court of Equity

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Recommended Citation

Dickinson, Edwin D. "Withholding of Political Recognition, Suit by Russian Corporation in Court of Equity (Russian Reinsurance Co. v. Stoddard, 240 NY 149)." *Harv. L. Rev.* 39 (1925): 127.

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Citations:

Bluebook 21st ed.
39 Harv. L. Rev. 120 (1925).

ALWD 6th ed.
39 Harv. L. Rev. 120 (1925).

APA 7th ed.
(1925). Harvard Law Review 39(1), 120-135.

Chicago 7th ed.
", " Harvard Law Review 39, no. 1 (November 1925): 120-135

OSCOLA 4th ed.
" (1925) 39 Harv L Rev 120

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INTERNATIONAL LAW — WITHHOLDING OF POLITICAL RECOGNITION — SUIT BY RUSSIAN CORPORATION IN COURT OF EQUITY. — The plaintiff corporation was incorporated in Russia under the Imperial government. Prior to the Russian Revolution it had deposited certain securities and moneys with the defendant, as trustee, as required by the New York statute, for the protection of policy-holders and creditors. In this suit to compel the return of the funds the defendant claimed that the plaintiff corporation was no longer in existence because of the Russian Soviet decrees. It was not controverted that the plaintiff corporation had been unable to do business in Russia, that the stockholders no longer met, and that the suit was brought in the name of the plaintiff by a person delegated by a directors' meeting in Paris. The Appellate Division reversed a judgment dismissing the bill, and the defendant appealed. *Held*, that although the court cannot recognize the legal validity of the decrees of the Soviet government, the facts of the situation are such that justice and reason require the court to refuse to take jurisdiction in this case. Judgment reversed. *Russian Reinsurance Co. v. Stoddard*, 240 N. Y. 149, 147 N. E. 703.

The plaintiff Russian corporation, organized under the old régime, had deposited certain funds with the defendant. In this action to recover such funds the defendant's answer denied the existence of the plaintiff corporation because of the decrees of the Soviet government. On the plaintiff's motion for a summary judgment, the defendant's affidavits set forth the Soviet decrees alleged to have dissolved the plaintiff corporation. The summary judgment was granted, and the defendant appealed. *Held*, that the facts set forth in the defendant's answer and affidavits do not show the non-existence of the plaintiff corporation. Judgment affirmed. *Joint-Stock Co. v. National City Bank*, 240 N. Y. 368, 148 N. E. 552.

In neither of these cases could the court give effect to the decrees of the politically unrecognized Russian Soviet government without involving itself in questions of policy and raising serious constitutional issues. See 38 HARV. L. REV. 816, 818. The judicial approach in the second case, however, frankly avoids any consideration of such troublesome questions while there is an independent ground for disposing of the case. *James v. Second Russian Ins. Co.*, 239 N. Y. 248, 146 N. E. 369. See 38 HARV. L. REV. 822, 833. A court of a government that has politically recognized Soviet Russia has recently found that the Soviet decrees have not dissolved the particular corporation suing in its courts. *Russian Commercial and Industrial Bank v. Comptoire d'Escompte de Mulhouse*, [1925] A. C. 112; *Banque Internationale de Commerce de Petrograd v. Goukassaw*, [1925] A. C. 150. Cf. 37 HARV. L. REV. 606. In the first case, the New York Court of Appeals is troubled by its prior decisions which refused to give effect to the decrees of the Soviet government. *Sokoloff v. National City Bank*, 239 N. Y. 158, 145 N. E. 917; *James v. Second Russian Ins. Co.*, *supra*. See John P. Trotter, "Extraterritorial Operation and Effect of Confiscatory Decrees," 3 N. C. L. REV. 88; Lewis Connick, "Soviet Decrees in American Courts," 34 YALE L. J. 499. See 38 HARV. L. REV. 833. Nevertheless, the court resorts to its equitable power of refusing to adjudicate the rights of the parties, in view of the probability that subsequent events may occur which would cause a present decree to work a severe hardship in the future. *City of Knoxville v. Knoxville Water Co.*, 212 U. S. 1; *Willcox v. Consolidated Gas Co.*, 212 U. S. 19. Cf. *Hoare v. Bremridge*, L. R. 8 Ch. App. 22. Cf. Roscoe Pound, "The Decadence of Equity," 5 COL. L. REV. 20. On the other hand, in view of the possibility, however remote, of the defendant's squandering the amount deposited, it seems that the court should have made some provision for keeping the fund intact.