

Legislative History of Federal Income Tax Laws, 1861-1938 (Book Review)

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LEGISLATIVE HISTORY OF FEDERAL INCOME TAX LAWS. 1861-1938. By J. S. Seidman. New York: Prentice-Hall, Inc., 1939. Pp. xviii, 1166.

Income tax legislation is comparatively young, a period of only twenty-five years having elapsed since the first of the current series of income tax laws went into effect. There is no longer any doubt that a tax on incomes is a fixed part of the fiscal policy of the Federal Government. After twenty-five years of administration of income tax laws, fixed principles begin to take shape, precedents become significant; one can begin to speak of the law of income taxation. In the development of income tax law, the accountant has taken no small part. He definitely enriched and broadened legal concepts of income, and added a heritage of accounting concepts and practice to the administration of income tax laws. Incidentally, he made a place for himself in income tax practice.

It is, therefore, peculiarly fitting that an important contribution to Income Tax Law and Procedure should be offered to tax practitioners by an accountant who happens also to be a member of the Bar. No tax practitioner could have hoped to have for ready reference, after only twenty-five years of tax administration, a volume of such importance. A legislative history, particularly in a comparatively new field, enables the lawyer to get at the intent of Congress in enacting its laws. After all, that is what the courts are required to do in deciding statutory law. This volume makes available "everything of interpretive significance said to or by Congress and passed or rejected by it from the beginning of income tax legislation (1861) to date".

Even a cursory examination of the book reveals the monumental task that confronted the author. He himself tells us that he spent ten years compiling the material. Considering the ease with which the reader is enabled to get at the facts in the book, one may gauge the success of the author's accomplishment. All important provisions in the many laws are covered, and these provisions can readily be followed through all laws. As an aid the author has created a simple system of indexes and key numbers. These can be learned in a few minutes. Even the Key to Statute type on the back cover, which is quite formidable in appearance (but apparently necessary to follow intelligently and quickly the changes made in any tax provision from the time it originates in the Ways and Means Committee Bill), can be learned or followed with a minimum of effort. The devices employed are quite ingenuous, though simple. The author employs Roman and Italic type, bold face type, ordinary and capital letters, parentheses, angle brackets, and straight brackets, stricken through lines and underlines, to denote the eliminations, additions, and also the bills in the various stages until they emerge from the final conference committee.

One of the major contributions of the author to the legislative history is his inclusion of the Congressional Discussions in the House and Senate on the bills reported by the several committees. This required considerable skill in selecting relevant portions of the Congressional Record.

Every reviewer looks for his pet interest in a book. This reviewer has long sought further enlightenment on the intent behind the Sixteenth Amendment to the Constitution, especially the words, "From whatever source derived". On page 1052 the author devotes about half a page to the Sixteenth Amendment.

Reference, to be sure, is made to pages in Volumes 44 and 45 of the Congressional Record for Congressional Discussion on the Amendment. In the light of what might be considered a tortured interpretation of the words, "from whatever source derived" by the Supreme Court in *Brushaber v. Union Pacific R. R.* (240 U. S. 1) and other cases, and the mischief that has resulted from such interpretation, selective references to the Congressional Discussion might have been included, verbatim, and these would have been quite enlightening.

This volume belongs in any tax library and the author merits the gratitude of tax practitioners for simplifying a monumental task of investigation of any tax problem.

BENJAMIN HARROW.*

NEO-NEUTRALITY. By Georg Cohn. Translated from the Danish by Arthur S. Keller. New York: Columbia University Press, 1939, pp. x, 388.

Dr. Cohn, Chairman of the International Law Division of the Danish Ministry of Foreign Affairs, offers here an unusually stimulating and challenging critique of traditional concepts of neutrality. That such a volume as this is a timely contribution to an age-old problem, become again acute, needs no emphasis. What makes it particularly important is its refreshing independence of viewpoint and its sharp analysis of doctrines both old and new.

The author devotes over two-thirds of his study to a searching appraisal of the legal background. He reviews, historically and analytically, the traditional concepts of neutrality, the technical problem of organizing the relations of belligerents and neutrals, and the relations between the idea of aggression (and the classification of war in general) and neutrality. He points out how, during the long evolution of the theory and practice of neutrality, certain concepts became so widely recognized that a "law" of neutrality was, in the nineteenth century, on the way toward general recognition. But he points out how most of these concepts were of an essentially negative character. On the one hand, the status of neutrality depended in the last analysis on the will of the belligerents. What privileges were enjoyed by neutrals were concessions granted by the states at war, not assertions of right substantiated by the action of the neutrals themselves. Only in the Armed Neutralities of 1780 and 1800 was there any concerted attempt on the part of neutrals to vindicate their determination to stay out of war. On the other, Dr. Cohn shows how far the "law" was a function, indeed a product, of changing conditions of trade and transport during the past three or four centuries. The expansion of commerce, the shift from sail to steam, the new technology of war which utilized an increasing range of products, all contributed to sharpening the divergence of interest and reflected in the constant attrition of neutral "rights". The whole process culminated in the War of 1914 when what had been thought of as reasonably stable rules of mutual conduct were ground out in the hopper of military necessity.

After 1919, new theories seemed at first to offer a substitute for traditional

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