

Neutrality for the United States (Book Review)

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answered, based on the decisions recited before. This procedure is followed throughout the other chapters, the effect being that of a spotlight focused on the essentials, leaving in the shadow the whole maze of superfluous detail and leaving the reader, whether student or lawyer, with an unconfused understanding and a clear-cut impression. It would be beneficial to the active practitioner to read that part of Chapter II dealing with foreign corporations,³ particularly the cases which deal with the distinction between intrastate and interstate business. In the light of increased zeal on the part of some of the states recently to compel qualification of foreign corporations "doing business",⁴ this presents a matter of timely interest.

The first part of Professor Prashker's work presents the fundamentals. The second part goes on to some more advanced fields of study. Nevertheless, the second volume carries on in the same vein of understandable and effective simplicity. Its seven chapters deal respectively with: (1) promoters; (2) subscriptions—marketing of securities; (3) the rights of shareholders; (4) management—directors and officers; (5) shareholders' actions; (6) rights of creditors, and (7) dissolution and combination of corporations.

Prominent place is given in Chapter Eight of Part Two to the growing importance of regulatory legislation in the distribution of securities. The author has included an adequate but concise digest of the highlights of the *Federal Securities Act of 1933*⁵ and the amendments of 1934.⁶ This definitely is in keeping with the author's successful attempt to give a panorama of the current field of corporation law rather than merely to offer an antedated historical survey. The foundation of the law, however, is not omitted or neglected, and proper consideration is given to all of the leading cases. However, the reflection of such cases on present-day conditions is emphasized. For example, side by side, as it were, with the opinion of Chief Justice Marshall in the *Dartmouth College* case,⁷ we have the Supreme Court's whole review of the law relating to a charter as a contract in the well-selected excerpts from the opinion of Chief Justice Hughes in the *Minnesota Mortgage Moratorium* case.⁸ In such fashion, a quick view of the problem is accessible in the light of contemporary circumstances. Thus, that which recommends this book above all else is this: it is practical.

SEYMOUR M. HEILBRON.**

NEUTRALITY FOR THE UNITED STATES. By Edwin Borchard and W. P. Lage. New Haven: Yale University Press, 1937, pp. xi, 380.

This volume, by the outstanding advocate in this country of a return to traditional neutrality principles as the basis of American foreign policy in time

³ Vol. I, p. 179.

⁴ Vol. I, p. 211.

⁵ Act of May 27, 1933, c. 38, 48 STAT. 74, 15 U. S. C. A. § 77A, *et seq.*

⁶ Act of June 6, 1934, c. 404, § 201, *et seq.* 48 STAT. 905.

⁷ Trustees of Dartmouth College v. Woodward, 4 Wheat. 518 (U. S. 1819).

⁸ Home Building & Loan Ass'n v. Blaisdell, 290 U. S. 398, 54 Sup. Ct. 231 (1934).

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of war, will be widely condemned by cooperationists and isolationists alike. It presents and argues the conviction that there is no ultimate insurance against non-involvement in foreign war except in impartiality based on pre-1914 doctrine and practice.

The authors' argument is divided into two main sections. The first deals in detail with the course of our diplomacy between 1914 and 1917, introduced by a brief review of the historical evolution of the rules of neutrality. It is unlikely that a more searching and devastating appraisal of President Wilson's policy during the three stormy years of an attempt to avoid involvement will be written. The authors dissect the course of American action with relentless logic; their analysis may be summed up in their definition of our position as "subjection" to British interest and policy, and in their estimate that "Mr. Bryan looms larger (in prospective) as a statesman and a prophet".¹ This section of the book pretty well disposes of the theses of Seymour and Baker of "why we went to war",² and leaves the defenders of our policy in the last war very little to support—except a failure to adhere to traditional practice or to hew out an effective alternative.

Their analysis of the alternatives is, however, less convincing. The essence of their major argument is that the new policy implicit in the neutrality legislation of 1935-37 is a dangerous commitment to a "crusade" for collective security, for a fallacious alignment of the democracies against the dictatorships, of the "haves" against the "have-nots". But the temper and logic of the argument are very different from their earlier analysis of our war-time neutrality. Indeed, it borders on the hysterical. It is an *ex parte* argument which ignores the premises (indeed, the writings) and excoriates the conclusions of such responsible authorities as Dulles and Armstrong, Jessup, and Wright.³ There is a good deal more heat than light in this part of the argument. And this is unfortunate. For there is no issue before the American people today more pregnant with portent for the future.

If our national interest lies in the direction of staying out of war, with all its preceding entanglement of national economy in war preparations, and its concomitant of individual regimentation of thought and activity, what is the most efficacious policy to pursue? Messrs. Borchard and Lage do not resolve the dilemma by advocating a return to the maintenance of our right to trade at will with both belligerents. They have not analyzed the longer-range implications of such a policy—nor of the alternative of a concerted policy of an actual instead of an apparent (and illusory) non-involvement by refusal to trade with either belligerent. Their analysis of the present neutrality statutes is acute and timely; their denunciation of the principle behind them is neither convincing nor objective. Whatever policy we pursue involves risks of involvement.

Neither active cooperation in efforts for collective security nor a genuine isolation through renunciation of war trade provides an absolute guarantee of our being able to stay out of the next war. But the policy they advocate, of

¹ CURTI, BRYAN AND WORLD PEACE (1931).

² SEYMOUR, AMERICAN NEUTRALITY, 1914-1917 (1935); BAKER, WHY WE WENT TO WAR (1936).

³ DULLES AND ARMSTRONG, CAN WE BE NEUTRAL? (1936); 4 JESSUP, NEUTRALITY (1936); WRIGHT, U. S. AND NEUTRALITY (1935).

maintaining our neutral "right" of trade with both sides, by force if necessary, appears to combine the most hazardous elements of both these policies for ends which seem no more substantial (explicitly stated) than a preservation of national "dignity", and (implicitly inherent in the argument) the protection of the traders' profits.

PHILLIPS BRADLEY.*

CASES AND OTHER MATERIALS ON INTERNATIONAL LAW. By Manley O. Hudson. St. Paul: West Publishing Co., 1936, pp. xi, 1440.

CASES AND OTHER MATERIALS ON INTERNATIONAL LAW. By Manley O. Hudson. St. Paul: West Publishing Co., 1937, pp. xxxix, 662.

The quantity which any German scholar is impelled to produce was the subject of comment long before my time. Professor Hudson, I suspect, was trained in the German school of scholarship: witness his second edition, complete and unabridged. Nevertheless the result is not entirely due to notions about what constitutes good scholarship. It is due chiefly, I believe, to a school of thought, for the most part tacit and subconscious, about what constitutes good material for a course in International Law. That subject, like so many others, has a practical and a theoretical side. Which shall be emphasized?

On the practical side are the cases and the statutes and the decisions. Relatively they are few, and any man who knows his subject can state nearly every one during the last two centuries by heart, from *Barbuit's Case* (1737) to *Bank of Ethiopia v. National Bank of Egypt* (1937). It is, therefore, not a task of great difficulty to compile a good casebook—I mean a *casebook*—and there are those to whom an easy task is repellent. Perhaps Professor Hudson is such a one.

On the theoretical side are the new treaties. No one, inside the field of International Law or outside of it, knows just how many of them there are. The treaties registered with the League of Nations are duly published, and the published volumes run into scores. Many of these treaties are never ratified; others are not ratified for many years; still others, like the Kellogg-Briand Treaty for the Renunciation of War, have been ratified by as many as sixty-three nations. Apart from the pedagogical fact that the text of a treaty is extremely dull teaching material, have such treaties any value to the student of International Law? These paper agreements, some of which have never come into effect, others of which have yet to face the bitter test of use, still others of which, like the Kellogg-Briand Treaty, have failed so dismally as to be illusory—do they really and reliably represent to the trusting student International Law as it *is*, or International Law as some idealistic professor hopes it will be in the days to come when the Golden Age returns to earth?

I often wonder, myself. Professor Hudson would not, does not, share these doubts of mine. In his index are to be found well over one hundred and

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