

Neutrality: Its History, Economics and Law. Volume 1: The Origins (Book Review)

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In short, the work under discussion will be of real benefit to the student fortunate enough to become acquainted with it.

JOHN C. KNOX.*

NEUTRALITY. ITS HISTORY, ECONOMICS AND LAW. VOLUME 1: THE ORIGINS.
By Philip C. Jessup and Francis Deak. New York: Columbia University Press, 1935, pp. xiv, 294.

This is the first volume of a proposed trilogy on neutrality and its history.† A more important subject would be difficult to think of, and a more timely book could hardly have been published. These are the days when war talk is in the air and when neutrality is foremost in the minds of all Americans. Situated far from scenes of possible conflict, the rights of neutrals and their obligations hold special interest for the inhabitants of this hemisphere. We need only read the debates in Congress from time to time to realize how staunchly held are the various opinions with regard thereto, and how completely divided are the exponents of different schools of thought.

Writing about the history of this phase of international law is like discussing the history of chaos—in the beginning there *was* nothing, and in the end there *is* nothing. Yet the authors have managed to fill a large-sized volume with interesting data about this chaotic branch of the science of the law of nations. They would be among the first, however, to recognize how void of real substance this history has been. There, of course, have been numerous articulations from authoritative sources with regard to the rights of neutrals in dealing with belligerents and with regard to the risks that neutrals run in such situations. But these voluminous materials, which the authors have finely combed, cannot avoid the conclusion which they reach that those who sought safety in the enforcement of neutral rights frequently found their hopes shattered. On the other hand, those who hoped to enforce to any extent the duties of neutrals, were likewise led to the path of disappointment.

It is perhaps asking too much of sweet reasonableness to expect belligerents to refrain from attacking trade with neutrals by their enemies, and the result that "ingenious frauds", as the authors term them, are frequently resorted to is no doubt unavoidable. The reality of the situation is that without some form of voluntary self-abnegation such as is contained in the Neutrality Act passed by Congress, and in the absence of some international sanctions to enforce the rights and duties of neutrals, it is not to be expected that nations will voluntarily forego opportunities presented by war to gain every possible advantage over their enemies.

A striking illustration of the lack of progress in this aspect of international law is afforded by a comparison of two historic incidents, separated by more

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† Ed. NOTE—A fourth volume on neutrality, dealing with the problems of today and tomorrow, has been added to those previously announced.

than three thousand years in history. The Biblical story of the invasion of Canaan by the wandering tribes in the wilderness is the first incident. We are told that before crossing the Jordan, it was necessary for the Israelites to pass through the territory of a friendly nation. This they sought to do by permission of that government and without in any way injuring it, paying for whatever damage their armies might do en route. But when the desired and solicited permission was not given, and the intervening nation sought to remain neutral and to observe its treaty obligation not to permit the passage of hostile troops over its territory, its land was laid waste by the conquering hordes, its people despoiled, and its territory added to the new territory beyond the Jordan, which then became the homeland of the conquerors.

The precise similarity of that ancient historic incident with what occurred in Belgium in 1914 is indeed striking. Surely, when the German government asked permission from the Belgian government to pass through its territory on its way to the conquest of France, it must have realized that the Belgian government had a right and an obligation to remain neutral and to refuse the desired permission. But the needs of war clearly overrode in the mind of the German government any such academic consideration for treaty rights or the laws of neutrality, and again the homeland of the Belgians was laid waste, its people despoiled, and destruction hurled in every direction. This time the affair did not turn out so successfully for the conqueror; but the lesson is clear and unambiguous. It must be discouraging indeed to the historian to realize how little progress was made in more than three thousand years in the capacity of peoples to govern themselves by refraining from violating the rights of others. If there has been any field at all in international law in which it might have been expected that observance of law would be the rule rather than the exception, that field would naturally be the rights of neutrals, for in some sense it must appear that the preservation of neutral rights is a boon to all nations. Nations at war might well be expected to preserve those traditions and customs which might be beneficial to them at a later date. But such foresight and vision has not been the rule in international affairs.

Neutrality, as the authors point out, is not always a clearly-defined concept. The refusal of a great nation, like the United States, to trade with belligerents, while clearly the fulfillment of its aims as a neutral, might swing the victory from one side to another. On the other hand, the continued trading by the United States with belligerents might turn the tide in favor of a weaker nation. From this point of view it has been argued that neutrality in its pure sense is impossible of achievement, for the very act of enforcing it constitutes partiality in many instances. These considerations are particularly germane when we consider the policies of the United States. Looking back over the pages of history, the authors find that real neutrality has been almost entirely a matter of doctrinaire and philosophical discussion, rather than of practical importance. A way must be found to iron out the conflicting notions which revolve around a true concept of neutrality.

We shall look forward to the forthcoming volumes of this series, dealing with the economics and the law of neutrality, for further enlightenment. Already we are in the debt of these authors for having gleaned the historical material in a clear and interesting manner, and having provided the student

with an easy source of access to the material needed to understand the background in which the future laws of neutrality will be found.‡

MAURICE FINKELSTEIN.*

FEDERAL INCOME TAX HANDBOOK, 1935-36. By Robert H. Montgomery. New York: The Ronald Press Co., 1935, pp. xix, 1034.

FEDERAL TAXES ON ESTATES, TRUSTS AND GIFTS, 1935-36. By Robert H. Montgomery and Roswell Magill. New York: The Ronald Press Co., 1935, pp. x, 458.

HIDDEN TAXES IN CORPORATE REORGANIZATIONS. By Arnold R. Baar and George Maurice Morris. Chicago: The Foundation Press, Inc., 1935, pp. xv, 547.

The Federal Income Tax Handbook, 1935-36, is the annual contribution of Robert H. Montgomery to the accounting and legal profession on the current status of the income tax law and its administration within the Treasury Department and the courts. The tax practitioner automatically adds this book to his tax library each year, for the author has long been recognized as a foremost authority on income tax law and what he says will prove of practical value to one interested in income tax law and its administration. The book is more than a handbook. It is encyclopedic in scope and should prove an excellent starting point and source for the investigation of any tax problem that disturbs the taxpayer and his defender against the marauding tactics of the Treasury Department.

This year the author has seen fit to add a bad preface to an otherwise excellent book. To the writer, at least, the preface seems incongruous in this type of book, for Montgomery here assumes the role of a political advocate, a soap-box orator as he bitterly attacks the present administration. He all but asks the reader to go to the polls next November and vote the straight Republican ticket and "throw the rascals out". To an admirer of Montgomery as a leader in the accounting profession, a lecturer, and authority on tax law, this is a jarring note.

In one of the calmer observations in the preface, the author claims that our income tax law violates the fundamentals of scientific taxation. Perhaps it does, but Montgomery does not enlighten us on what is meant by scientific taxation. Is it scientific, for example, to exempt state and federal bonds from taxation? Such an exemption has been part of our income tax laws since 1913. It stands out today as probably the most glaring defect in our tax law, and yet the author has not a word of protest against this unscientific "help-the-rich" feature of our law.

‡ ED. NOTE—Since the submission of this review, the remaining volumes have been released by the publishers.

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