



JASPER R. LEWIS

Books in brief

The Relativity of War and Peace. By Fritz Grob. (New Haven: Yale University Press. 1949. Pp. xiv, 402. \$5.00.)

Although this book was, evidently, not written with this purpose in mind, it furnishes as complete evidence as could be cited of the inadequacies and inner contradictions of international law as it has existed for the past three centuries and more. These inadequacies and inconsistencies appear on every page.

The book was actually designed, to borrow the terms used by Dr. Roscoe Pound in his foreword to the work, as an analytical study in this basic field of international jurisprudence—the field of war and peace.

The study is divided into two parts, a historical and a theoretical section. The first two chapters present, with historical examples of their use, the “basic terms” which “ought to be considered in a study of the legal concepts of war and peace.” The author has performed an impressive feat in revealing the “welter” of terminology to which, for political and other reasons, states have resorted in expressing their interrelationships, peaceful and otherwise.

Chapter III is devoted to a discussion of instances concerning which authorities disagree as to whether the situation was one of war or peace. Here are discussed the American Naval Operations against France, 1798-1800, and against Germany and Italy, 1941; the Boxer Expedition, 1900-1901; and German Military Operations against Italy, 1905-1916. In each one of these cases, the terminology of official pronouncements reveals a large measure of inconsistency. Chapter

IV discusses a series of battles “said to have been fought in peacetime.”

In the theoretical section, Chapter V “surveys . . . the rules of law which . . . refer to war.” Chapter VI reviews and rejects various textbook definitions of war. In Chapter VII, through a comprehensive discussion of many of the terms listed in Chapters I and II, the main thesis of the book is developed. The book is amply documented, and there is an extensive bibliography of private and official publications containing “on the whole” only titles “which have been cited more than once and in an abbreviated form.”

The main thesis, based upon a most painstaking and far reaching investigation, is that, contrary to the common assumptions of international jurists, international law fails to furnish a definition of war or of peace “in the legal sense.” Although, as Dr. Grob amply demonstrates, the terms appear constantly in parliamentary discussions, legislative documents, and court decisions, as well as in diplomatic statements, international law treatises and the texts of treaties, he denies that a consistent definition of a state or condition of war or peace exists.

As corollary to this main contention, Dr. Grob maintains that, as used in their legal connotation, the terms “war,” or “state” or “condition of war,” and therefore, also, the corresponding methods of referring to peace, have in each case been used “in relation to and in the meaning of the various rules of law on war.” Hence *The Relativity of War and Peace*.

The rules themselves, he further declares, must in the given case be interpreted, not

according simply to the face value of the words used by governments, as in a declaration of war. They must be interpreted according to what the words amount to "in terms of action;" according to the "intent and purpose" of the specific rule of law on war in question.

All of this necessarily involves a large measure of interpretations. The question is therefore posed as to how and by whom this interpretation is to be made. The book does not furnish an entirely satisfactory answer. At times Dr. Grob seems to suggest that if a state *acts* in accordance with any rule of the international law on war, such, for example, as a rule concerning the treatment of prisoners of war, such state thereby, even despite a general categorical declaration to the contrary, acknowledges itself at war in relation to that specific rule.

In the light of the whole discussion, however, too long and too intricate to be reproduced here, we find ourselves forced to the conclusion that in the last analysis it is in many instances the author's interpretation of intent and purpose, as well as of the words used, and, indeed, of action itself, that we are asked to accept. We wonder whether the criterion adopted by the author does not come very close to that most commonly applied by text writers: the carrying on of armed conflict by hostile groups. The constant use of the general terms "war" and "peace" throughout the book, dedicated though it is to the thesis that no general definition of these terms is possible, raises a very fundamental question.

Dr. Grob denies that a definition of "war" or "peace" could be arrived at by bringing together into a composite whole all the known rules of the international law on war.

A main question in the mind of the reviewer is whether the author has not taken somewhat too seriously the inconsistencies of this field of international law, and hence of international law in general.

Nowhere has Dr. Grob attempted to assign the fundamental reason for the confusion that exists. That reason lies in the chaos and legal anarchy that, in spite of international law—or shall we say because of it—has lain

in the international field. Each state has been ultimately free to make its own pronouncements in the terms of its own choice, and to interpret them for itself, however inconsistent the statements and the interpretations may have been with one another, or with those of other states.

The Relativity of War and Peace is concerned with one of the most baffling problems of international law—the nature of war. The problem is rendered more significant by the fact that approximately one half of the entire body of international law lies in this field. The confusion existing here has long been known and acknowledged. But in no other study has it been so convincingly set forth, nor with such wealth of material as in this book.

There is great question, however, as to whether this legal chaos can in itself be reduced to any sort of order, or whether order can come only with a fundamental change of underlying assumptions. The doctrine of national sovereignty is a doctrine of anarchy, and as such resistant to effective legal definition and a legal order. Such a fundamental change as is suggested must, it is believed, somehow involve the merging of the sovereignty of the separate sovereign states into one political unity with central power of uniform interpretation and enforcement.

It is cause for some regret that in his final discussion of United Nations enforcement action under the Charter, Dr. Grob is content to relate the pertinent provisions of the Charter to his main thesis of the "relativity of war and peace." While he accepts the fact that, the coordinated action there provided for would not be war in relation to certain rules of law, he holds that it would be such in relation to other rules. Nowhere does he suggest that in those provisions might be found the germs of a new world order in which international war as it has been would no longer exist, and in which, therefore, the rules of law on war would no longer have the significance that they have had in the past.

ELLEN D. ELLIS,
MOUNT HOLYOKE COLLEGE

BRIEFER COMMENT

BIOGRAPHY

Why the author calls it "an unauthorized biography" is not clear. *John L. Lewis*, by Saul Alinsky (Putnam, \$4.00), has nothing that Lewis might find objectionable. It is devoted almost entirely to the part of the miners' leader in organization, battling for improved conditions and pay, and greater personal power. The author pays due honor to Lewis' ability and his dominating influence, and seems to side with him against Roosevelt in their political quarrels. It is entirely pro-labor and pro-Lewis.

James Grossman has both a sympathetic pen for his subject and a dispassionate judgment of his work in *James Fenimore Cooper* (Sloane, \$3.50). There is a little of the personal, to give some perspective of the man, and of his writings. There is critical appraisal of both achievement and intention, based on detailed analysis. The volume is one of the American Men of Letters Series.

Another in the same series is *Jonathan Edwards*, by Perry Miller (Sloane, \$3.50). This study of the sermons and beliefs of the early American writer and theologian is concerned with the fundamental beliefs of the Puritans, and Edwards' differences with them. It has extensive discussion of colonial principles and tabus.

The Life and Death of Chopin, by Casimir Wierzynsky (Simon & Schuster, \$3.95), is descriptive of the development of the composer and the influences that encouraged him. Chopin's genius and his love affairs are skillfully blended into a moving chronicle, and the sketches of his intimates, including George Sand, are equally absorbing. Some newly discovered letters to his first mistress supply close pictures of Chopin's hopes and trials. The translation is by Norbert Guterman.

Some of the personal chitchat of the ruling circles of Southern society during the Civil War serves as relish for the main courses in *A Diary from Dixie*, by Mary Boykin Chestnut (Houghton, Mifflin, \$5.00), edited by Ben Ames Williams. Events, comments, and criticisms are recorded freely by the author. There are historical allusions on every page, spiced

with a gentle lack of inhibition. It supplies an intimate portrait of the Southern life of the era.

FICTION

A brief look at fiction finds *The Old Oaken Bucket*, by Bellamy Partridge (Crowell, \$3.00), a pleasant tale of country life in Connecticut and the local garden club. There is amusing characterization and a minimum of action.

The Best of Intentions, by Robert Molloy (Lippincott, \$3.00) is the psychological development of its chief figure, a New York Irish Catholic, whose lack of adjustment to life affects his attitude toward his family and his church. In many ways it is realistic.

A will brings a murder, and what follows is the search for causes. William Faulkner's *Knight's Gambit* (Random House, \$2.75) is of life somewhat in the raw in the rural South (Tennessee), with characters that are rough and sometimes bizarre, but always flesh and blood. The story is a dramatic tale, rather than a mystery.

OF GENERAL INTEREST

Turning from his news broadcasts, Quincy Howe makes a running narrative of twentieth century history to date in *A World History of Our Own Times* (Simon & Schuster, \$5.00). This is the first of three volumes, covering the years from 1900 to the 1918 armistice. Each chapter has a brief preview to focus the reader's thoughts, and a short summing up to give the results of each period. Howe tries to include human angles as well as the sober record.

The Ohio, by R. E. Banta (Rinehart, \$5.00), is the history of that stream from the days of La Salle, the Indians, the French and English adventurers, and the pioneering Americans, to the later industrial decades. Banta has a considerable part of American history to relate, centering in the states bordering on the river, and with that goes the picture of the rivermen, the vessels from canoes to steamers, and the politics of its inhabitants. It is in the Rivers of America Series.