

# Law and Peace (Book Review)

Edward D. Re

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### Recommended Citation

Re, Edward D. (1952) "Law and Peace (Book Review)," *St. John's Law Review*: Vol. 27 : No. 1 , Article 26.  
Available at: <https://scholarship.law.stjohns.edu/lawreview/vol27/iss1/26>

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the like? Not from the state, but from an order higher than the state, the natural order of justice.

Anthropologists who spend much effort in bringing to us the nature of lost civilizations are delighted when they can describe these ancient worlds in modern terms and show resemblances between them and us. This yearning for continuity finds its human practical counterpart in the devotion of parents and children to each other. Who can doubt that such manifestations are part of a great natural order, large enough to encompass the idea of justice—to which all man-made law, judicial as well as legislative, must strive.

MAURICE FINKELSTEIN.\*



LAW AND PEACE. By Edwin D. Dickinson. Philadelphia: University of Pennsylvania Press, 1951. Pp. xii, 147. \$3.25.

Professor Edwin D. Dickinson, a leading authority in international law and international relations, in "Law and Peace," has made available the fruits of many years of experience as a teacher, scholar, and participant in public affairs to all those interested in a world society where law and peace insure the freedom and tranquillity to which the world aspires. In a thought-provoking little book, consisting mainly of four lectures<sup>1</sup> which he delivered at Northwestern University in February 1950, Professor Dickinson has expounded a philosophy of law and world organization that may very well be carefully examined by world statesmen and diplomats. Surely, those charged with the overwhelming burden of establishing the firm foundations designed to maintain and promote a lasting peace, will benefit immeasurably from a careful study of this terse report on the failures, achievements and possibilities of international law. The book, therefore, deals with the principles and practical application of that system of law designed to resolve world conflicts and to govern the relations of nations.

In his foreword Professor Dickinson informs the reader that his general title, "Law and Peace," is the product of ". . . a bit of personal history which may be of interest."<sup>2</sup> The title originally was to be "Peace under Law," but since law provides no panacea for world problems such a title was discarded and the author tentatively formulated the title "Law under Peace." This was in turn discarded and the essays finally appeared under the present title. The

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\* Professor of Law, St. John's University School of Law.

<sup>1</sup> Other parts of the book have already appeared in the author's casebook on international law and in a law review article. See DICKINSON, *CASES AND MATERIALS ON INTERNATIONAL LAW* (1950); Dickinson, *International Law: An Inventory*, 33 CALIF. L. REV. 506 (1945).

<sup>2</sup> P. xi.

author states that this ". . . final title was no soft-spoken compromise. If there was less of commitment in it than in the formulation previously rejected, there were also significant implications. Law in relation to Peace might occupy a great segment of the far-flung front in the everlasting struggle of humanity against unreason."<sup>3</sup> Hence, the project was to ascertain and demonstrate that which law has to contribute to the attainment of a lasting peace.

In an individualistic, reportorial style, Professor Dickinson has surveyed the entire breadth of international law and world organization. In four chapters entitled respectively: "The Community of Nations," "The Law of Nations," "The Growth of the Law" and "The Law and Peace," Professor Dickinson has painted an accurate picture, notwithstanding his broad strokes, which depicts the lights and shadows of international law and practice. Fortunately, the author is no impractical idealist who exalts the position and function of law in the global horizon. Rather, he has realistically portrayed the shortcomings and failures quite as vividly as the actual and potential achievements. For example, in the chapter in which he discusses the community of nations, he indicates that not all nations can be governed in the same manner, and that many factors such as polity, culture, tradition, geographical position, population, individual customs and mores must be taken into account by those whose task it is to achieve agreement and understanding among the nations. This is not to say that nations do not possess elements in common. However, the author convinces his reader that these variables must be considered in order to discover the common ground. He asks, "[h]ow otherwise, where ideologies diverge widely, could disagreements on such matters as the judicial function, the individual freedoms, state trading, or private property ever be understood or usefully reconciled?"<sup>4</sup> This realistic presentation is found throughout the various discussions.

In relation to the practices concerning the birth, recognition and extinction of nations, he indicates that such areas are left largely to the interplay of political forces. Not only does he mention gaps or lacunae in the law but, when relevant, he indicates how the overwhelming influence of national interest is made to prevail over both principles of law and acknowledged standards of morality and decency. To this may be added the presentation of the deficiencies of the existing institutions of international adjustment and the extravagant pretensions of sovereignty together with the obstacles which they present to the development of an effective international law and order.

From one standpoint it may be said that in these critical essays Professor Dickinson offers a word of encouragement to the proponents of a world government movement. He states, as a foreword to the discussion, that the project ". . . is not something to be put aside brusquely as daydreaming or as a mere activity outlet for those who find it difficult to face the realities of life on this disordered planet."<sup>5</sup> He continues by indicating that "[m]uch of history is the narrative of an ultimate realization of ideas hopefully, though perhaps un-

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<sup>3</sup> P. xii.

<sup>4</sup> P. 28.

<sup>5</sup> P. 131.

realistically, projected by the idealists of an earlier time." <sup>6</sup> Although he believes that the proponents of such an effort ". . . may help a little to point up deficiencies in the existing organization of coöperative effort," <sup>7</sup> he surely does not wish to exchange the present system of world organization under the United Nations for a world government movement. Referring to these ambitious projects he speaks quite emphatically in favor of the present system of world organization. He cautions: "When presented as alternatives to what we have, they become positively harmful. Surely we cannot think seriously of loosening the hold on what we have in pursuit of the will-o'-the-wisp of a supreme parliament!" <sup>8</sup>

Professor Dickinson disagrees with the "traditional formula" that only nations are the subjects of international law and that individual human beings are only subjects. He concludes that "[w]hatever validity the formula may have had in past times, . . . there can be little doubt that it has lost much of its significance under modern conditions." <sup>9</sup> He refers to the Charter of the United Nations as an indication of the ". . . unprecedented concern for fundamental human rights and the individual's well-being." <sup>10</sup> Because he feels that the individual has not thus far attained his rightful place and protection under a world-wide law, he is heartily in favor of the International Covenant on Human Rights, the Universal Declaration of Human Rights and the Genocide Convention. He feels that no period in the progress of international co-operation has produced such a profound interest for human rights and freedoms. At one point one finds the exhortation that "[a]lways to be stressed is the basic proposition that it is the human individual rather than the inhuman state that is the subject of our ultimate concern." <sup>11</sup>

Since Americans cherish the traditional liberties found in the Bill of Rights and commend them to other peoples, he inquires "[w]hy fear them in a treaty?" <sup>12</sup> Like so many other students of international law, he is astonished by the proposal that the Constitution of the United States be amended to impose express limitations upon the treaty power. He is likewise amazed by the effort to modify or repeal the clause of the Constitution which makes a treaty the supreme law of the land. The reviewer is in complete accord with Professor Dickinson when he writes that "[t]hese are counsels of exaggeration and fear to which we can ill-afford to listen. We have never withheld from our government the power to win a military victory. It would be disastrous if we were to withhold from it the power to win peace under law." <sup>13</sup>

Although "Peace and Law" can be read with profit by the beginner in international law, it is not the beginner who will derive the greatest benefit. For example, only someone familiar with the struggle and criticism that has fol-

<sup>6</sup> Pp. 131-132.

<sup>7</sup> P. 133.

<sup>8</sup> P. 134.

<sup>9</sup> P. 124.

<sup>10</sup> *Ibid.*

<sup>11</sup> P. 133.

<sup>12</sup> P. 141.

<sup>13</sup> P. 142.

lowed the International Covenant of Human Rights can appreciate the penetrating comments made by the author. It is doubted too, that the uninitiated can fully appreciate the implications in the discussions suggesting that the ". . . more extravagant pretensions of sovereignty must be rejected,"<sup>14</sup> and that there should be an end of ". . . weasel-worded escapes from responsibility and of surrender to the premises of traditional disorder."<sup>15</sup> Perhaps the same can be said for the discussion in which the author bemoans the manner in which the United States accepted the compulsory jurisdiction of the International Court of Justice. Surely the form of the acceptance of jurisdiction of the United States does not show the calibre of leadership in peace that it has successfully assumed in war. In relation to this acceptance the author exclaims "[i]f this be leadership, assuredly it is leadership in the wrong direction!"<sup>16</sup>

"Peace and Law" cannot be expected to offer a blueprint for the attainment of permanent peace. It does, however, embody the deliberations and suggestions of a mature scholar. Any book written by such an author which undertakes to portray the interrelations of peace and law will doubtlessly influence lawmakers and statesmen, and hence, the law itself. The author is the first to admit that there are "no easy and simple solutions." Lawmakers and statesmen should ponder the author's conclusion: "The more enduring peace is not to be implemented in halting expedients, or bought with dollars, or even enforced with arms. Increasingly it must be waged in execution of a well-planned and an embracing strategy. Increasingly it must be waged with law."<sup>17</sup>

EDWARD D. RE.\*



BAR EXAMINATIONS AND REQUIREMENTS FOR ADMISSION TO THE BAR. By the American Bar Association, Survey of the Legal Profession. Colorado: Shepard's Citations, 1952. Pp. xvii, 498. \$5.00.

The American Bar Association has published in this volume the reports of the twelve members of the Advisory and Editorial Committee on Bar Examinations and Requirements for Admission to the Bar appointed incident to a survey of the legal profession made by the Association.<sup>1</sup> The vol-

<sup>14</sup> P. 116.

<sup>15</sup> *Ibid.*

<sup>16</sup> P. 138.

<sup>17</sup> P. 147.

\* Professor of Law, St. John's University School of Law.

<sup>1</sup> The members of the Committee are Eustace Cullinan, Chairman; Herbert W. Clark, Vice Chairman; Goscoe O. Farley, Secretary; Homer D. Crotty; John T. DeGraff; Professor Sheldon D. Elliott; Professor Marion R. Kirkwood; Marjorie Merritt, Executive Secretary of the National Conference of