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WORLD PEACE THROUGH WORLD LAW,
by G. Clark and L. B. Sohn. Harvard University
Press, Cambridge, 1958. \$7.50.

David Lehman

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such an institute. In a field in which there were no existing treatises and a great deal of judicial and administrative confusion, he has prepared a volume of substantial breadth and depth. In Part I, he has traced a fascinating history of the joint venture, its origins, its characteristics, and judicial and administrative attempts at classification. In Part II, he narrates in documented detail the tax life of the joint venture from 1894 through the Internal Revenue Code of 1954 and its aftermath of regulations and rulings. Finally in Part III he explores the use of the joint venture in the production of oil and gas, in motion pictures production and the theatre, and in the development and sale of real estate. These chapters are rich in informed analysis and documentation and alone amply justify the volume for the practitioner's library.¹ A case table and well-arranged page index, as well as a table of contents by sections, afford ready entrance and in adequate detail. There is provision for a supplement as well, since Parts II and III are necessarily concerned with developments still in flux and still unfolding.

For the reader who is tempted to probe the history of business organizations more deeply, the chapters, particularly the chapters on "The Adventure in History" and "Joint Adventure: Origin and Analogue," are replete with references for further reading; a bibliography renders them readily accessible by author and, in the case of law review notes and comments, by title.

*Melvin G. Dakin**

WORLD PEACE THROUGH WORLD LAW, by G. Clark and L. B. Sohn. Harvard University Press, Cambridge, 1958. \$7.50.

The problem of world peace today is clearly the most important and urgent of all human problems. The technology of modern war has given the solution of the problem of world peace an air of immediacy and necessity. There is, however, great danger in viewing the problem exclusively in terms of its immediate and necessary solution. Such singular concentration

1. For the practitioner needing guidance in the special problems of joint venture corporations, there is now the excellent two-volume work on Close Corporations by F. Hodge O'Neal recently published by Callaghan & Company. See review, page 233 *supra*.

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tends to foster those oversimplifications and misplaced emphases that beget fundamental errors. The authors of *World Peace Through World Law* have allowed themselves to fall into this intellectual trap. In presenting their intricate and lengthy plan for world peace, the authors have demonstrated certain basic misconceptions of the nature of international relations and, if one is to take this volume as prima facie evidence, of the nature of international law itself.

What is essentially proposed in this volume is a world disarmament arrangement to be accomplished through the instrumentalities of a revised United Nations. While there are many unanswered questions concerning the proposed international institutions, the objections that must be made are of a more general and fundamental nature. The authors begin by postulating that world peace can be achieved only "by the acceptance of institutions corresponding in the world field to those which maintain 'law and order' in local communities and nations." This, of course, is correct. The difficulty, however, comes in the word "acceptance." The authors have seemingly denied that peace can come through "diplomatic maneuvering" within the context of the present system of international relations. They have accepted rather the thesis that world peace would most likely result from a world-wide discussion of a detailed plan. This discussion would produce the agreement necessary to establish the institutions to pass and enforce a "clearly stated law against violence." The discussion process as it applies to decision making or law making in a national society unfortunately is not applicable at the international level. Law making at the national level arises from a basic social unity within which a consensus exists on the ends and means of political control. It is within national societies that such concepts as "justice" and the "common good" have concrete meaning. The individual in the national society can expect that "justice will be done" or that the "common good will be served" within the context of shared values and common institutions. It is obvious that "international society" has not reached this degree of consensus over ends and, therefore, means. This is to say that before the world can accept common institutions of the kind proposed in this volume, there will have to be agreement on the ends, the values, these institutions are to serve. Thus, the problem is not one of devising institutions, but of creating that consensus among the peoples of the

world which would support them. The task is one of reducing international conflicts and tensions in order that those forces of international integration will develop. This is the task of the diplomat, not the law giver.

The problem of disarmament must submit to the same analysis. The relevant question here is the basic one of whether arms cause wars. The one lesson to be learned from the disastrous history of the disarmament movement is that the level of armaments is a function of the relations among nations and not vice versa. As long as international tensions are high there is little likelihood of disarmament, even nuclear disarmament. Disarmament is not a solution to the problem of peace, but rather a result of peaceful relations. It is not the central problem, the keystone as the authors would make it, but a secondary one.

The authors point to the multitude of instances where nations accept international obligations which involve some surrender of the nations' control over domestic affairs. This is regarded as a surrender of sovereignty. There is no reason, therefore, why any nation should object to the obligations inherent in their proposals, that is, to the law against all armaments and its enforcement through an inspection service with executive powers and an international police force. Some violence is done here to the concept of sovereignty. While it is true that nations assume international obligations that take effect domestically, the nation remains the final arbiter of its own destiny — free to accept or reject those obligations according to the dictates of its national interest. The nation still jealously guards its supreme right of law making and law enforcing within its territorial limits. This is the essence of sovereignty. Although this classical definition of sovereignty may have outlived its usefulness in some limited respects, it expresses the reality of international law. The total submission of the state on the matter of armaments as it is prescribed in this volume would be more than the assumption of another treaty obligation, but the destruction of the state itself. What the authors call for, therefore, is nothing less than a revolution in man's thinking about the state.

The problem of peace is not one of law making but of building that basic social unity that will support a true world law. To think of law in the sense that it exists in the national state as

applying to the world without first considering the society upon which it has to be based is at best utopian. Such legalistic thinking can only obscure the nature of the problem and, therefore, hinder the possibility of its solution.

*David Lehman**

THE DOCTOR AS A WITNESS, by John Evarts Tracy. W. B. Saunders Co., Philadelphia, 1957. Pp. xiv, 221.

Because of the complexities of modern industrial society, the increase in personal injury and workmen's compensation litigation, and the great advances in medical science, doctors are more and more frequently called upon to give expert testimony in judicial proceedings. A lawyer should not be surprised to learn that many doctors approach the witness chair with misgivings, for certainly the lawyer called upon to play a prominent part in a surgical operation would approach the operating table with even greater trepidation (whether asked to serve as operator or operatee). A doctor in the courtroom is a stranger in a strange land, unfamiliar with the customs, traditions, and ritual. In such an environment, he is called upon to express his professional opinion and to defend it against vigorous cross-examination. Frequently the views he expresses are diametrically opposed to those expounded in the same proceeding by other members of his profession, and the conflicting medical opinions are argued, sifted, weighed, evaluated, and *judged* by *laymen*—for of course judge, lawyer, and jurymen are all laymen with regard to things medical.

If the increased participation of the medical man in judicial proceedings is to result in increased respect between the professions, and if the talents of the doctor are to be more effectively utilized by the law, then it is important that doctors gain greater understanding of the function of the lawyer in society, of the nature of judicial proceedings, of the philosophy underlying the adversary system, and of the function and significance of the doctor's role as expert witness.

The aim of Professor Tracy in writing *The Doctor as a Wit-*

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