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LAW WITHOUT FORCE: THE FUNCTION OF POLITICS IN INTERNATIONAL LAW, by Gerhart Niemeyer. Princeton University Press, Princeton, 1941. Pp. xiv, 408. \$3.75.

Charles W. Pipkin

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pire. Nevertheless, in spite of the best efforts of anti-interventionists, pro-British propagandists, along with the dismal parade of current war events, are slowly drawing America toward entrance into World War II against the Axis.

The authors consulted a great deal of source material in preparing this study. They present their findings as objectively as is perhaps humanly possible at such a time, but they make no attempt to dispose of the issue of American intervention in World War II. The value of the book is that it contains much interesting data on propaganda methods which will be useful to students of public opinion. A layman may regard the study as a clever bit either of anti-Nazi or anti-British propaganda, depending upon his point of view when he first opens the book.

ALDEN L. POWELL *

LAW WITHOUT FORCE: THE FUNCTION OF POLITICS IN INTERNATIONAL LAW, by Gerhart Niemeyer. Princeton University Press, Princeton, 1941. Pp. xiv, 408. \$3.75.

One of the amazing things about the present world anarchy is the continuing interest that is taken in a program of international order after a peace, which may end the present world conflict. This follows somewhat the pattern of past wars. In every armed struggle, there have been leaders who have seen beyond the immediate battlefield. Lincoln is one example. In the war of 1914-1918, almost from the beginning there were conferences on what the aims of peace should be when an armistice was declared. A great deal of pamphlet literature remains as testimony to the hopes of important minority groups about post-bellum European affairs. This is especially true of the Labor Movement in France and England. Outstanding Liberals issued Reports. In this same period, national leaders in the United States led a crusade—The League to Enforce Peace, for example—which provided a background for the efforts of President Wilson in his fight for a League of Nations. In this present study, Mr. Niemeyer discusses in his introduction the unreality of international law and the unlawfulness of international reality. He begins his survey with the end of an epoch in the public order of the world on the first of September 1939. He considers two problems to be faced: The

* Associate Professor of Government, Louisiana State University.

first is to give an unflinchingly realistic account of the past, the second is to try to conceive an alternative for the future. He does not evade the fact that the present universal war is a breakdown of the attempted system of collective security and international justice which was a brief experiment after Versailles.

Students of international law and affairs saw early in the 'twenties the breakdown of world order. The invasion of the Ruhr was a plain sign post. England and France used the League for purposes of shortsighted self-interest. The United States Government followed a policy of isolation. Italy and Germany were *saboteurs* early in their pseudo-allegiance to the League Covenant, the World Court, Kellogg Pact and International Labor Office. This is the old story, but it does not follow that the world can exist without an international order or has suddenly lost its moral conscience. Thus, Mr. Niemeyer comes to the conclusion that the reason international law is ineffectual is that in its present form it neither serves the need nor appeals to the moral sense of the modern world. The author reaches this conclusion: "International law must be more political, if politics is to be more lawful. In this world, in which the political point of view plays such a predominant role internally as well as internationally, there seems to be only one way of an effectual international order: Law instead of acting as a dam, must become the helpful canal, through which functional coordination of states can be achieved, the condition under which states are able to fulfill their functional tasks. Its rules must cease to be abstract commands, they must govern the articulations of the immanent laws which govern human activities in the field of political institutions. Just as the law of individuals developed in ancient times as the first *social science*, growing out of the observation and formulation of the standards according to which people actually lived and worked together, so likewise the law of international relations must be made a discipline which studies the inter-connectedness between states, and crystallizes the rules found in it. There is no other way that will lead to an effectual legal order of international politics."

It is well to note the outline which is followed in this brilliant book in the discussion of the standards of legal order, which ought to be derived from the idea of interrelated and coordinated activities and not from the idea of the independent existence of persons. Here it is: Part One, the Function of Law in International Politics; Historical Introduction: A Genealogy of International

Law; I, Law in the interdynastic politics of absolutism; II, The role of international law during the period of liberalism and imperialism; III, The place of law in the world politics of today. Part Two, Legal Theory and Political Reality; Sociological Introduction: The Connotations of Politics; IV, Moral idealism and political realism in international law; V, The sociological background of international law; VI, Making international law work. Part Three, A Reconstruction of International Law; Philosophical Introduction: The Significance of Function; VII, The notion of the state; VIII, The conception of the legal rule; IX, Organization or orientation.

A genuine contribution is made by the author in his challenging discussion of the relationship between international law and social structure. Years ago Hiliare Belloc characterized the general collectivist tendency in modern economic society as the Servile State. Herbert Spencer anticipated much of the writing on this point. The phrase is now the Social Service State in which the individual and the community are subsidized in their activities by the omnipotent or omni-competent state. The contemporary writer on international affairs, with Mr. Niemeyer, usually takes the year 1930 as the turning point in the social and political development of the modern national community. The financial collapse following the year 1929 brought "the epoch of a privately directed world economy to a definite end." This year marked the Hoover moratorium on debts and the breakdown of the gold standard. International society became demoralized and was a disintegrating force in orderly world economic and social and political achievement. It is, then, at this time that the state took over the affairs of mankind with the willing acceptance of a capitalist, a communist, a collectivist world. The state made the decision in economics. It is then that the state after 1930 provides a vast background for international law. In 1940 it is the War State. It is the international community at war. No one can tell what will happen now to private and world economy.

Finally, Mr. Niemeyer, after his analysis of the past and his summary of the present, rejects a moral basis for international law and suggests that a functional basis should be substituted for it. International law leads to the world state and, in the author's opinion, short of this, every project for international organization must fail to provide a solution. The question of international order is only one aspect of the general problem of the lawful and orderly exercise of political functions and political power. Mr.

Niemeyer believes the only possible settlement in international relations is the laying of the spiritual and practical foundations of a system of law which will enable states to function in the manner which they necessarily must if they are to give expression to their inherent significance. A new outlook on the problem of law must prevail, and when this spirit is developed, the solution of organizational problems will be attacked at a higher level. The author essentially believes in a functional system of law divorced from moral exhortations or appeals to shattered authority. "It must be a system of law which will coordinate the respective functions of states—a system which, instead of restricting states, represents and conditions under which their functional ends can best be attained. It must be a system of law which by suggesting a frame of reference for the highest degree of constructiveness in coordinate conduct, stimulates an inherently orderly functioning, and thereby counteracts any arbitrary use of power."

It is well in these times to have so stimulating a discussion presented by one whose background indicates a wide range of scholarship and a deep understanding of the functional approach to political and social philosophy and international law. This is a first-rate study in historical analysis, a fresh investigation of the present breakdown of an orderly system of law, and a stimulating preface for the future of international law.

CHARLES W. PIPKIN *

THE LAW OF PUBLIC HOUSING, By William Ebenstein. University of Wisconsin Press, Madison, 1940. ix, 150. \$1.75,

This small volume is essentially a background book on public housing. In illustration, the first fifty-six pages consist of definite background material (Chapter 1 covers the elements of the housing problem, and Chapter 2, the organized governmental activities in this field), and the last nine pages may be considered in the same light, since they compose a summary of the foreign experience. Forty-three pages are dedicated to "Public Housing and the Law: State." This, notwithstanding the fact that public housing as developed today in this country is decentralized and the legal testing ground is the court rooms of the states. Mr.

* Dean of the Graduate School and Professor of Comparative Government, Louisiana State University.