

to forfeit forever moral authority in their community. The Christian ethic requires these citizens to go out on the street and do whatever may be necessary to help their fellows bring the fire under control.

The passage of the Neutrality Act of 1939 was a signal to the world that the United States had gone indoors and drawn the shades. To repeal the Neutrality Act is to crawl out from under the bed, throw open the shutters, unlock the doors and go out on the street to help law-abiding neighbors who are in trouble and who need assistance.

This we will do. We will repeal the escapist sections of the Neutrality Act because our national policy has been declared through the passage of the Lend-Lease Act and the effect of these sections is to make that policy increasingly null and void.

We will repeal the Act because we recognize the irresponsibility of promising to supply the soldiers of freedom while withholding the transportation necessary to deliver the supplies.

We will repeal the Act because freedom of the seas is a condition of a free world and the destiny of the United States is to serve mankind by helping to establish such a world.

A Quaker View of Political Pacifism

THE very genuine agreement between the religious pacifism of the Quakers and the position of this journal on the question of political pacifism is apparent in a recent editorial of *The Friend*, organ of the yearly meeting of the Friends. The editorial,

written by Dr. Elton Trueblood, declares: "The prospect of those who call themselves Christian pacifists uniting in public meetings with Hearst and Wheeler and their kind is most discouraging. It will be one of the most difficult aspects of our situation to explain and uphold in the future. So-called pacifists of this type are to be recognized both by their actions and by their words. Their characteristic action is to try to manipulate a postal card barrage on Washington; their characteristic speech is the reference to the crisis as 'the President's war.' This last, which appears in almost every issue of a distinguished Christian weekly, is particularly inane. The crisis in which the whole world shares is assuredly not of the President's contriving.

"Reinhold Niebuhr has recently declared, out of his wide knowledge of American life, that religious pacifism hardly exists 'outside the Quaker community.' We are humbled at the suggestion that it exists *within* the Quaker community, especially when he calls it 'a pacifism rooted in a broken spirit and a contrite heart.'

"Our task is to keep alive in a world that needs it sorely a minority based on convictions about which we do not waver, but convictions which do not hinder the conscientious efforts of others who are as eager as we are to do their Christian duty. If a minority really *could* uphold a pacifism rooted in a broken spirit and a contrite heart, every enlightened government would be grateful for its witness. Our task is to bear witness, but not to obstruct."

Toward a World of Law

JOHN T. McNEILL

THE announcement in June that Hitler had been awarded the honorary degree of Doctor of Laws at the University of Leipzig has called forth some mocking laughter in England. An amusing incongruity often attends the conferring of honorary degrees upon political figures, but in this case it must have been peculiarly difficult for the academicians to maintain their wonted gravity. The most lawless of despots is welcomed to the fellowship of legal science. It is as if Cesar Borgia had been made a saint or the blaspheming professor, Simon de Tournai, seated among the doctors of theology in Dante's Heaven.

The new doctor of laws is a despiser of law who rose to power by acts of lawlessness, terror and trea-

son. His agents fired the Reichstag building, Germany's legislative chamber. Under his régime the legal rights of individuals and groups have been freely set aside or ignored. Germany has passed the stage in which the absolute state snatches away the subject's rights: the state itself has no basis in law that can secure it against capricious change at the dictator's will. As for international law, it is for Hitler a tissue of cobwebs. Germany, Europe and the world are asked to abandon the fruits of a long development in the discipline of law and the science of jurisprudence, and the structure of international contracts and organizations is laid in ruins.

The deterioration of politics in the past dozen years has been accompanied by a growing indiffer-

ence to the legal bonds of society. Had respect for law been high in Germany, Hitler and his ruffians would never have gained sway. But the problem of the authority of law is universal and by no means simple. If it received more attention in this country we should have less criminality. The health of society is in direct proportion to the adequacy of its laws and the respect in which they are held. The disorder of international relations is due to the inadequacy of international law or to the perverse will to flout it. No accumulation of treaties of peace can constitute an obstacle to war in the absence of an integrated, binding system of international law that is genuinely revered and loyally enforced. Such a system would not be merely international; it would be better described as supernational; and some structure of world government would be required to keep it functioning. As citizens of the United States we are subject not only to state laws but to federal laws, and the public peace is maintained with the help not only of state and local police but of federal police. If in what is left of the twentieth century we are to have a world at peace an analogous relationship will have to be devised or evolved between a body of law applicable to all nations and that of each national state. (I use this analogy only to be understood, not to propose the imitation of the American federal system in a future world polity; to begin with any existing national model might prejudice the plan.) We must anticipate and help to bring a supernational government. Because I think few people yet in their hearts admit this, and that few of those who do realize its revolutionary meaning for nationhood, I venture to linger on the point here a little.

Necessity of World Government

We know by heart the lengthening list of nations tricked, frightened or beaten into subjection by the Nazi power. Through indignation and apprehension some of us lose perspective and so far forget the political facts of the present as look forward to a return to the *status quo ante bellum* (in reality the condition was not a *status* but a *flux*)—that is to the pretense that unmodified national sovereignty and international security are compatible. A fundamental reorientation is needed here. Our quarrel with Hitler is not that he has sought to unite Europe, but that he has attempted this by ruthless force in defiance of law and right, and that he proposes to conquer and enslave the world. The unity that is laid upon the nations by force and fraud must be dissolved; but unless we are prepared to tread the old path from Versailles to inferno it must give place to a unity of consent and cooperation. It is far more apparent now than in 1918 that the era of atomic nationalism is ended. This is the one certainty that emerges from the doubtful battle, the one obvious lesson of political

experience in both hemispheres. We hear proposals for regional organization, for continental or hemispheric solidarity, for combinations of great powers to enforce peace. Any or all of these may have a function to perform, but they do not add up to anything sufficient for the need. Even if Hitler goes to St. Helena nothing short of a world government with respected power and functioning law can meet the conditions of this century and preserve posterity from unimaginable anguish.

This crisis is upon us because a hitherto slow process of history is violently accelerated by our sudden technological advance. Since the Barbarians tore the Roman Empire asunder the West has struggled to obtain political solidarity and stability. Charlemagne's promising achievement was followed by disintegration and the loss of law and peace. The real rulers were local feudal potentates and lawless barons. In Germany men spoke of "first-law." In Ireland tribal kings kept the Isle of Saints in turmoil. Scottish clansmen savagely assailed their neighbors as alien enemies. In Italy rival towns habitually engaged in furious combat. Meanwhile kings were slowly subjugating these turbulent little powers and reducing them to law. The clergy promoted the Truce of God, with sanctions for violators, and so helped to mitigate the destruction. Franciscan missions to communities often settled private quarrels, but it does not appear that the pacifism of the friars had any ameliorating effect on the prevalence of war in Italy. What was really of permanent value for peace was the incorporation of particularistic units in larger, controlling political organizations, and especially the growth of national states. Religious leadership has aided the trend toward pacification where it has co-operated with the secular efforts of men of affairs and has admitted the use of force to prevent its more destructive and unjust use. It has not been the negative pacifists who have been the peacemakers.

Of course human progress is always subject to reverses and the story of widening fields of freedom from internal war is a broken tale. To relatively recent times some great and now well-ordered nations have been disturbed by civil wars. We can only affirm a general trend toward wider sovereignties and areas of pacification. In the process there has been operative a wide variety of motives and interests, selfish and secular, humane and religious. And changes came slowly. The eighteenth century was begun before England and Scotland closed in a political union a long era of tension and conflict. A year before this was achieved the old hostility was renewed and seemed about to yield a new war, but timely action set the stage for an enduring peace. Though secular interests seemed dominant at the time, religious leadership had also its part in the change. The union was the fulfilment of John Knox's

"marvellous vehement and piercing prayer" for peace in St. Giles in 1560, then reported by the English ambassador. While in this union national sovereignty was sacrificed, each nation yielding its autonomy into the larger unit, liberty was given fresh guarantees. A Hitler union crushes liberty with autonomy: it is possible also to enhance liberty while curbing autonomy, though old-fashioned nationalism finds this a hard lesson. As against feudalism the nation state promised peace: as against a world polity it offers the peril of war.

Technology and Politics

This tormented generation may take some comfort from the record of old feuds that are dead and buried except as they rise again in history and romance. But the present crisis is in some respects far graver than any that men have solved in the past. The new critical factor is the annihilation of space upon this planet for purposes of intercourse and war. This fact speeds every process, gives an intensity to every struggle, and historic significance to the decisions of nations and men. Mechanically the world is being rapidly unified. The airplane like the seagull is at home on land or sea or in the air. It recognizes no national or natural frontiers. It is so swift that an aviator might encircle the earth without losing sight of the sun. With a few more improvements in heavy bombers it will be possible to have a lively war between Switzerland and Bolivia. A still greater unifying force is the radio, which bears its burden instantaneously and effortlessly everywhere. In war dozens of short wave stations assail the opponents' ears with an increasing flood of persuasion. The thoughts of men are being fused, even as they are being confused, by the voices in the air. When peace comes we shall have mutual advice, protest, enlightenment and alas! advertising by radio in all the tongues. Already we listen to conferences across oceans. If there has not been a discussion between an Eskimo, a Hottentot and a Bushman the oversight is probably due to the war. An orator provided with enough interpreters could talk to the peoples of the planet as if he were addressing a town meeting. His audience, it is true, could not see him—which might be no disadvantage—but television will one day take care of that. No nation can ever again hold an election, review its internal policies or alter its tariffs or its immigration laws in the relative privacy it enjoyed for these operations when this century was young. All the world will listen to its party discussions and recriminations. All the world will be sensitive to its actions and ready to advise and admonish. Isolationism is a lost cause.

This seems to lead us far away from Adolf Hitler, LL.D., *honoris causa*. But Hitler's strength and menace to all peoples lie in the fact that he appreciates the bearing of technology on politics. His

design involves the complete utilization of the mechanical revolution and the new spatial manageability of the world, as means toward the dictatorship of the *Herrewolk* under their war lord. In the spiritual and cultural realm law and religion are the two great traditions that oppose him. If he embraces the legal fraternity this does not alter his basic hostility to law as a cultural and political force. For like religion law has an anterior claim to universality which does not rest upon mechanical power.

From the pre-Socratics to the rise of modern legal positivism the philosophy of law rested upon the notion of a principle of justice, divinely implanted in man and recognized by his reason, which was called "natural law." According to Cicero, who gathered elements from Platonic and Stoic thought, this is the true law "agreeing with nature, unchanging, everlasting." It cannot be abrogated by the senate or by the people; it is the same at Rome and at Athens; it binds the nations at all times, for its framer and proposer is God. The church fathers, the scholastics, and the Protestant Reformers supported the classical doctrine with citations of Scripture,—in the New Testament invoking especially Romans 2:14-15, where the Gentiles "show the works of the law written in their hearts." Despite their increased emphasis upon the fall of man the Reformers all treat natural law as the basis of positive law and an important element in political ethics. It is sometimes forgotten that before Suarez and Grotius revealed the full value of the doctrine for the rising science of international law, a series of Protestant jurists and publicists (including Oldendorp, Hotman, Gentilis and the authors of the Huguenot *Defence against Tyrants*) had expounded the doctrine or assumed it as not to be questioned. Though alien to the theories of Machiavelli and Hobbes, it continued, with modifications, to be taught through most of the modern era, and is embodied in the foundation documents of this republic. Ernst Troeltsch, at an early stage in the modern breakdown of internationalism, explained the alienation of Germany from "the West" by the rejection of natural law concepts in German political thinking. It would, I think, be unsafe to ascribe the present crisis exclusively or even mainly to this cause. Nevertheless it is not to be dissociated from the failure in Germany before Hitler of a fundamental realization of the authority of law as opposed to the mere will of the strong.

Positivist Theory of Law

In the juristic science of the last hundred years natural law has, however, largely yielded to positivistic concepts. According to natural law theory, positive laws should express in actuality the universal idea of absolute and invariable justice, and are valid only as they approximate this pattern of the natural

law. The positivist on the contrary, regarding natural law as a delusion, or at best as an ethical and not a legal concept, gives final authority to positive law itself as expressing the competent will of the law-maker. A variety of modifications of the positivist position, and a revival of natural law theory, mark the current discussions in jurisprudence. In recent decades able advocates of natural law have appeared in Germany, France, Great Britain and America. It has been pointed out by Professor Roscoe Pound that historically natural law doctrine has appeared peculiarly adapted to eras of growth. When Grotius, craving, with his generation, some relief from international conflict and anarchy, sought to erect a structure of international law where none had been before, he laid the basis in natural law. It may be that a revival of the doctrine will prove of incalculable value for the next steps in world pacification.

It is doubtful if on positivist theory even the laws of individual nations can stand secure. With no basis of authority other than the state and no standard of criticism above reason-of-state, law seems to lack stability or the power to stabilize the state which creates it. When a lawless agitation arises, the reign of law, lacking moral support, may be swept away, and the omniscient state become only the omnipotent chief of state whose will is the substitute for law. In the state someone ought to be able to say the equivalent of what Calvin says about a bad law. Such a law, according to Calvin, is an attempt to abolish the integrity of nature by which the ordinances of God are distinguished from the corruptions of men. No legislator can make vice not vice. If anyone in tyrannical pride dares attempt it "ermerget tamen oppresum naturae lumen ac praevalēbit"—(the suppressed light of nature will nevertheless break forth and will prevail!)

A positivist theory of international law presents still greater difficulties. Gerhart Niemeyer in his recent arresting but inconclusive study *Law Without Force*, has shown how the positivists in order to avoid abolishing international law have had to "resort to concepts inherited from natural law." Niemeyer's criticism of the Grotius tradition is not that it adopted the long accepted doctrine of natural law, but that under the influence of Roman law conceptions it regarded the nations as legal persons. The separately existing nations have been taken as the starting point while in fact international law is probably concerned only with "nations-in-connectedness." He would replace the "personalistic" by a "functional" conception by which international law would express itself in "rules whose value criteria are actually felt and experienced by those who are to realize them." There is probably a real insight in this argument. But whether or not this author has rightly diagnosed the defect of the traditional international law, it must be

admitted that, despite a great deal of effort to interpret and validate it to the modern mind, it has not played a rôle commensurate with the problems of the twentieth century. The task of framing the structure of world-law must now begin anew. For this task the inspiration and perspective needed can, I think, be found in a reconsideration of the ancient doctrine of natural law.

Natural Law and Christian Thought

Religious leaders have too long neglected to seek an intelligent understanding of the nature and function of law, a subject on which theological science once spoke with authority. Natural law doctrine was integrated with Christian thought through the most of the latter's history, and was a doctrine dearer to theologians than any other political idea. In attempting to understand it we shall be recovering part of our heritage of thought. And, it is this writer's opinion (for what it is worth) that a far larger degree of unanimity can be established among authoritative Christian thinkers of the past on this subject than is usually admitted. The historic doctrine of natural law is needed to create the mental attitude necessary to the refounding of a system of law for "nations-in-connectedness." As in early Protestantism the notion of the invisible Catholic Church was an aid to the reform of the visible Church, so a clear conception of natural law would aid in the realization of an effective scheme of positive law for the reorganization of our disordered world. It can give us support for the ecumenical social task of the Church, for it is itself ecumenical, transcending, like the Christian fellowship, the limitations of the national outlook. It is the recognition of the existence of a sound and universal human sense of what is just.

It is time to prepare our minds for the return of peace. There is a real danger that the patriotic reaction to Hitler's rule may render the now oppressed nations intractable when they are freed. There is danger, too, that if this nation emerges easily stronger than any possible resisting power, she may prove inconsiderate of others, or non-cooperative in the effort to bring a lasting peace. There is danger that we all may put our trust in a settlement made on a short view of the ever-changing scene, and that, forgetting that technology has nullified space for politics, we shall weight national, regional or hemispheric organizations with responsibilities they cannot bear without a strong world organization to integrate all.

The possible rôle of the Church in the coming task is immense. The Church has always known herself ecumenical, and she realizes this fact a little more keenly today than at any time in the recent past. She is free to cooperate in the making of a supernatural order without compromising her traditions. More insistently than any religion Christianity has pene-

trated to the far corners of the earth. Christians need to come alive to the opportunity which is likely to be offered them in the near future. Church leaders ought to embrace the ecumenical elements in the traditional culture. They need to find a way to obtain access to short wave radio on a scale not yet approached and persistently speak ecumenically, solidifying the Christian worldwide fraternity, countering selfish propaganda, releasing the mind from nation-bound political concepts. The Church has not only a gospel of personal salvation but a social, ethical and political mission. Her political mission for this

century is not primarily that of a negative censorship of the morals of city councils or party politicians, though these still need her attention. Nor is it her task to purr sweetly in response to the roars of the man-eating tiger and deplore the violence of those who resist him! This is the way to yield the very right to be religious in any way that can be called Christian. It is rather to capitalize spiritually and practically upon the tradition of her ecumenicity, thinking, teaching, and working with all who will cooperate, toward a unified and law-abiding *ecumene* —a worldwide reign of freedom and law.

The World Church: News and Notes

A Letter to Great Britain from Switzerland

(We publish the frequently quoted letter of Karl Barth to Britain in full below, both because of its intrinsic importance and because various published excerpts from it have given rise to misunderstandings about Barth's position.)

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