FAITH – Barrier to Tyranny

SPEAKING FOR US High Commissioner John J. McCloy, who was unable to attend, Dr. George N. Shuster, US state commissioner for Bavaria, delivered the following address at the Catholic Day ceremonies Sept. 1 in Passau.

During nearly three quarters of a turbulent and dramatic century, the Catholics of Germany have met each year to discuss the spiritual and material welfare of the individual citizen as well as of the community in which he lives. You and your fathers have come together these many years in a spirit of profound dedication to the abiding values of Western civilization. That these values have been imperiled in our time it is hardly necessary to remark. For the only period during which the Catholic Days were forbidden was the era during which Hitler ruled Germany in the name of totalitarianism. When you came together again in 1948 for the first time since 1933, your assembly symbolized most movingly the emergence of your people from bondage.

In like manner the fact that you are here today, in this beautiful old city which is one of the princesses if it be not the queen of the Danube, is of the greatest significance. For from beyond this border town of cathedrals and old houses the forces of oppression have not yet come. We are wont to say in my country that all men have been created equal under the law. Of course, it is quite clear that they do not yet possess the spirit of comradeship one with another which such a profession of the rights and the dignity of man implies. Nor are they imbued with that reverence for and kindness to one another of which the New Testament speaks so movingly and eloquently.

Nevertheless, a free society is one which is always resolutely committed to the belief that reverence, kindness and comradeship can eventually be established among men. Its members believe that through common dedication and common sacrifice they can build a social order in which the deepest aspirations of humanity for life having goodness and meaning will in large measure be realized, both for the relatively rich and the relatively poor. A totalitarian order of living on the other hand is one which takes it for granted that no such society can be created.

ONE WOULD, UNDER ordinary circumstances, refuse to believe that there could be many people who would claim that they were entitled to rule as masters over a folk of slaves. But in our age it is unfortunately necessary to admit that there are many such persons—very many.

And so I am hardly surprised to find that there are not a few in Germany and elsewhere who question the probable survival of a freedom-loving society. They have already lived under a regime of dire compulsion so long and in such distress that the thought of being emancipated from tyranny for a long time seems almost like a fairy tale. But it is this faintness of heart, this resignation to fatalism, which is the profound weakness of our time.

We need to remind ourselves constantly of what the early Christian so superbly knew—that the real warfare is that of the spirit, fought with the weapons of the spirit. The power and the glory of nations vary with the ages. What does history reveal more closely than it does the fluctuations to which economic ability and military prowess are exposed? But the greatest and most enduring revolution of which the Western world knows is that which gained its momentum from these incorruptible men and women who, like Barbara and Barnabas, braved the arena and the catacombs for their faith. Unless we are deeply convinced that following the light of conscience to the end can alone save us, no external means will suffice.

THIS FAITH IS NOT NAIVE. At the moment, for example, petitions are being circulated in various places in behalf of peace. We who do not forget that the first message of universal brotherhood and understanding was brought to the shepherds outside Bethlehem, know an appeal for the pacific settlement of world problems as well as the desire for amity among nations is self-evident and constant. But a question immediately presents itself—Are the free people of the world those who have repudiated peace? We can only answer, these peoples have endangered their own security in an effort to achieve a lasting understanding.

Anyone who looks at the map of Europe today will see at a glance that large sections of the West have been sacrificed in the hope that in this manner the danger of controversy and possible war could be removed. Yet
YOU OF ALL PEOPLE desire peace. Countless thousands of your sons have died on fields of battle. Thousands of them are still in prison camps. And many other thousands of your daughters are homeless and despoiled. In this sense particularly you are brethren of my countrymen who have girded themselves for battle more reluctantly, perhaps, than has hitherto any of the great nations of the world. But we stand together in the belief that although fighting to acquire one foot of territory is futile and immoral, there is nothing more sacred than is freedom. And I repeat that although the preservation of peace through orderly use of police power is necessary, the weapons and the warfare of the spirit are more important than all else.

This old town has rung with the alarms of many struggles. I sincerely believe that it can shine with the glory of peace for numberless years if you will take away from this place of assembly the conviction that your allegiance to the cause for which the Savior of mankind lived and suffered and died can truly be a source of illumination in a dark time. Peace and freedom are attainable if we maintain our faith and the faith of Christians is a mighty barrier to tyranny. But it will be so only if it is the possession of men of justice and valor, of kindness and social dedication, which things the Lord God asked of His servant Moses in the burning bush.

---

Judicial Council Discusses Mixed Panels

THE RIGHTS OF THE ACCUSED, no matter what his nationality, are thoroughly safeguarded in the courts of the US High Commission. This assurance came from Chief Justice William Clark of the US High Commission Court of Appeals who at the same time suggested that German judges be permitted to sit in on certain cases. Such action would, in the opinion of the Chief Justice, increase the prestige of the court in the eyes of the German people.

This suggestion was one of many discussed at the quarterly meeting of the judicial council held recently in Berchtesgaden. Presided over by Judge Clark, the council — members of the US Court of Appeals — and a number of guests, meeting in informal session, also discussed their particular legal problems, including the recent legislative revision of the organization and jurisdiction of US High Commission Courts (Law 10).

The US High Commission Courts in Germany are embodied in 11 judicial district courts presided over by judges appointed by the US high commissioner. Above these courts is a court of appeals with Judge Clark as chief justice assisted by eight associate members.

The district courts, located in the US Zone and US Sector of Berlin, render, with few exceptions, decisions on all criminal and civil cases involving US citizens residing in Germany charged with offenses under Allied High Commission, US Military or German law.

The matter of the courts' extended jurisdiction in civil cases under the new law was discussed by the council. Among limitations are domestic relations cases, libel, slander and false arrest.

It was also emphasized that the new law requires three-judge panels only in cases of life or death instead of cases involving sentences of 10 or more years, as previously. Periods of limitation for the institution of civil action was changed from one year to three years.

A GUEST AT THE MEETING, Roger N. Baldwin, who recently toured Germany for the American Civil Liberties Union, voiced his approval of Judge Clark's hopes for future mixed panels (German and American judges) and expressed a desire that a bill of rights, patterned after those of the American Constitution be instituted for all defendants appearing before HICOG courts. Mr. Baldwin emphasized that in statutory form these rights would make the Germans more sure of their protection before the courts.

The council included for the first time judicial officials of other zones, among them Chief Judge D.N. O'Sullivan and Judge Graham Rogers of the British Control Commission courts. Lord Russell, Judge Advocate of the British Armed Forces, and Col. Damon Gunn, EUCOM, represented the military interests of their respective zones.

The council meeting was particularly significant not only for the exchange of ideas between American jurists and the resultant increased efficiency of the US Zone judicial system but also because it brought together the legal experts of the combined zones into closer harmony in their important role of democratizing Germany through just and comprehensive interpretation of law.