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WAR AND THE RULE OF LAW

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The thesis of this lecture can be expressed in the simple proposition that peace on earth is impossible without the rule of law. An immediate corollary of this proposition is that war is inevitable so long as this one indispensable condition of peace is lacking. Since I believe that the rule of law, which has already established limited and partial peace on earth that is, peace among small groups of men can be extended to cover all men, my thinking leads me to the conclusion that war is a curable social disease; that law is its cure, the only effective remedy because the only one that goes to the roots of the pathology; and hence, finally, that it is possible to attain an unlimited peace unlimited in extent and in duration.

These truths have come to seem so obvious to me that I have had some difficulty in determining what more must be said or written to make them obvious to those who persist in thinking otherwise, that is to say, those who suppose that war is the inevitable and ineradicable lot of man; those who suppose that the root cause of war cannot be removed, so that peace among sovereign nations can be established without the abolition of their sovereignty; or those who suppose that the diplomatic guile and the gloved fist of power politics are the only available instruments in the sphere of world affairs all those who try in one way or another to avoid the conclusion that only by unity of government, only by a single rule of enforceable law governing all the peoples of the globe, can global peace be made and sustained.

On the other hand, we know, of course, that the whole of political theory and the whole philosophy of law are involved in the understanding of war and peace, the cause of peace and the prevention of war. When this is reflected upon, the problem is not how much more need be said but rather how far one must go in the exposition of basic principles in order to give one's conclusion the certitude of demonstrated truth, and in order to make its meaning so precise and so clear that there is some check against the inveterate human tendency to evade a conclusion as rigorous in its demands as it is rigorous in its foundation.

Confronted by these opposite difficulties, the effort will here be made to aim at the essential minimum that needs to be said. I have chosen what seem to me to be the five points that must be understood if the meaning and the truth of my thesis is to be seen. I shall try to provide only a rudimentary analytic elaboration of each of these five points. To do more than that would go beyond the scope of a single lecture. To do less would fail to present an unanswerable argument.

I shall proceed at once to the argument itself, the movement of which will be discernible in the order and connection of the five points which will be stated and briefly expounded. When that is done, I shall return to the thesis already presented and try to show how it necessarily follows as the unavoidable conclusion from these undeniable premises.

The first point in the argument is that the institution of government is indispensable for the existence of any human community.

By a community is meant a multitude of men living together in peace and order. A multitude of men taken without these further qualifications is not a community. The root of the word "community" is unity, not any unity, but the unity of a multitude having something in common.

A community or a society's nothing but the existence of a unity of public peace. The term "public peace" or "political peace" is used in order to prevent anyone from misunderstanding the kind of peace that is here referred to. In the history of European thought, and even today, the word "peace" is used with other connotations. We speak of "being at peace with one's self." The psychiatrist claims to help men find peace. That is not the kind of peace that concerns us here. The political peace or the public peace with which we are concerned occurs in the sphere of social action, whereas the inward peace of the soul, the contentment of the heart, lies in the conduct of the individual life. It belongs to the consideration of the moralist or the psychiatrist. It lies beyond the sphere of law and politics.

For a community to exist, for a multitude of men to live together in peace and order, each member of the community must consider the good of the community as well as his own good, and he must do so because his own personal good is inextricably bound up with the good of the community. If man were not by nature a social animal, this would not be true. If man were not by nature a social animal, he could live well in complete solitude. But since he is naturally social, which means that he needs the co-operation of his fellow-men in the pursuit of all the characteristically human goods, the well-being of the community in which he lives is itself a condition of his own personal welfare.

In the process of living together, men inevitably find themselves in disagreement about three things. This is not a reference to the speculative disagreements which occur in every culture disagreements in science or metaphysics, in religion or the theory of art. It is a reference to the practical disagreements which men inevitably face

in the difficult process of living together, disagreements which arise from their efforts at co-operation and which occur in their transactions or dealings with one another.

There are three major areas of practical disagreement. These three types of disagreement are inescapable because they are incurable. They are due to the limited rationality of man.

1. Individuals will not always agree about what measures should be adopted for the good of the community, what means should be chosen for the maintenance and promotion of the common good, which is at once the good of each man as well as the good of the organized multitude that is the community. If this common good, if the good of the community, belonged to any one man and not to another, such disagreements might be avoidable, because then the common good would be the interest or province of one man and not of another. But since the common good or the good of the community is a good in which all members of the community have an equal interest, they are all equally privileged and obligated to consider what steps shall be taken for the common good. About such matters, reasonable differences of opinion are always possible.

2. Individuals will not always agree with one another about what is justly due to each of them in the sphere of those private transactions which constitute their dealings or intercourse with one another.

3. Individuals will not always agree with one another about what is due each of them in justice, either as a reward or as a punishment, from the community as a whole.

4. These are the three major areas in which men will always find themselves in disagreement when they try to live and work together, co-operating in the conduct of a community. Unless there is some way of settling such disputes, the community will not long endure.

Now there are only three ways in which every sort of dispute among men can be settled. Some disputes can be resolved by reason, demonstrating which of two contrary positions is true in the light of all the available evidence. This supposedly is the way mathematicians, philosophers, and scientists settle their disputes. Disputes can also be "settled" by the violent suppression of one of the parties by the other. This is the way in which brutes settle their disputes. A third way is by the adoption, on the part of all concerned, of some fixed principle of procedure in the arbitration of disputes.

Let us look at these three ways and see whether they are applicable, and how they are applicable, to the practical disputes which occur among men in the course of community life.

The practical problems of social life, in any of the three areas mentioned, cannot be solved by reason, as a mathematical or metaphysical problem can be. Political

problems and all problems of justice involve contingent circumstances that make a scientific solution of them utterly impossible. To problems of this sort, contrary solutions can usually be found and can usually be defended by reasonable men on both sides of the question. It follows, therefore, that the authority of reason alone is not sufficient to resolve the disagreements of men engaged in the difficult task of living together, aiming together at the common good of all and separately at the ultimate good of each.

Nor can these practical problems be solved by force alone without destroying the community itself, for the maintenance of which solutions are sought. This is not to say that these practical problems cannot be solved by force alone. If we are willing to play on the word "solved," we can say that force alone can solve them to the extent that one of the contenders, one of the disputants, is removed. But force, in removing the controversy, also destroys the community. A successful use of force by one of the parties will temporarily remove the other party as an effective contender, but it never really removes the issue itself and merely postpones the day when the loser will be able to exert force in the opposite direction. *The use of force, and force alone, in the settlement of disputes is nothing but war.* Where war is the only means for settling disputes, no community exists, for war and peace are incompatible, and some degree of peace is of the very essence of the community's existence.

Hence there is only one method of preserving the community from the disruptive consequences of inevitable disagreement among its members. That method combines reason and force. That method is the method of government and the rule of law.

Let me briefly explain the principle of government. To do this, we must take a nonexistent simple case. The term "nonexistent" is used because, so far as the writer knows, there is no clear exemplification of this simple case. Yet this simple case provides us with the principle in its most obvious form and so enables us to see the principle when it occurs in more complicated embodiments.

In its simplest form the principle of government consists in the convention of abiding by the decision of the majority. This convention itself establishes a procedure by which all disputes can be peacefully settled. On any given matter where there is a reasonable difference of opinion, the convention proclaims that the opinion of the majority shall prevail. This does not mean that the majority is always right in fact. It may be wrong in fact as often as it is right, though there is some reason to believe the opposite. The principle of majority rule is not justified as a way of reaching *the right decision in every case* but rather as a way of reaching *some decision peacefully*. Furthermore, reason can take part in this method of reaching a decision, in so far as the issue is debated prior to the vote. But what is most important of all is the fact that the majority decision, regardless of its content, is binding upon all, because the convention of abiding by such a decision has been freely chosen by all as a method of resolving disputes. Since the authority of this principle is the authority of the community itself, the force of the whole community can rightly be used against any dissidents who try to avoid the effect of a majority decision when they find it adverse

to their private interests. Such use of force is not war, nor is it violence, for such force is used with the authority of the whole community.

Imagine a relatively small community in which the total population can be called into assembly on any question involving the interests of the whole community. Let the convention of majority rule provide the method for getting decisions. Since there is no way of *proving* in any case which is the right way to proceed, which is the right course of action since in any dispute about matters of public policy reasonable men and men of good will can take opposite sides this convention, which is the heart of the principle of government, is simply a way of finding a decision that will be obligatory upon all, because the convention underlying its attainment is set up by all. No one is injured, though some individuals in individual cases may suffer from the adverse effect of a decision. But the chances are the same for all in each case. This is the simplest example of the principle of government by which men are able peacefully to reach decisions about practical problems without resort to violence, though not without the use of force in the support of the decision when reached.

Now let us consider all the complicated cases. In all its representative forms, the principle of government remains essentially the same. Instead of the whole population deciding every issue by a majority vote, some part of the people, invested with the authority of government by the whole community, exercises that authority to decide public questions and uses the public force to make the public decisions binding upon those who refuse to recognize their authority. Thus we see that the principle of government is nothing but the establishment of a way of making the authority and force of the whole community supreme in matters that concern the public good. Since in practical matters decisions must be reached, and since in public matters a single decision must prevail, and must be binding on all the interested parties, among whom some disagreement is likely, the principle of government is needed to achieve that unity of decision without which there cannot be peace and order no unity of men living together, no community.

The principle of government is the principle by which laws are made, the laws themselves determining what shall be done or shall not be done for the common good. The principle of government is also the principle underlying the administration of laws, and it is through the administration of laws that disputes between individuals about private matters can be arbitrated and resolved. In short, government is needed for the peaceful settlement of all disputes about matters affecting the common good, concerning which disagreements will always arise among men who are trying to live together.

My second point, which qualifies my first substantially, is that the principle of constitutionality is indispensable to government by law.

There are two ways in which government can be instituted. Government can be instituted by force and subjugation, some men imposing their arbitrary will upon others and making it binding upon them through actual or threatened violence.

Government can also be instituted by the derivation of the authority and power of officials from the authority and force that are naturally vested in the community as a whole.

The community as a whole naturally has the authority to decide what is for the common good. No individual man has this authority naturally. His private authority does not go beyond deciding what is for his own good. But government, in every case in which it is not simply a majority decision by the whole population, must result from the decision made by some men for the common good of all. If all men are not at all times participating in the acts of government, the acts of government must be the acts of representative men, officials who in their public capacity are doing what they could not do rightly in their private capacity, for in their private capacity they have no authority to govern. It is only in their public personality, which is an adopted personality, that men have public authority. For the decisions of individual men to be authoritative in the community, the men making them must get their authority from its natural source, which is nothing but the community. The process by which the community's authority and power are conferred upon certain men, the men who occupy the offices of government, is the constitution of a government, whether that constitution be a customary device or a written document.

The basic opposition always referred to in the pages of political theory between government by men and government by laws properly understood only when it is conceived as an opposition between nonconstitutional government and constitutional government. It is sometimes wrongly supposed that the alternatives are constituted by government in which law alone rules and by government in which men rule without making laws. Both of these alternatives are obviously impossible. There is and can be no government by law alone, for men are always required to make and to administer laws. Nor, strictly speaking, is there ever government by men alone without there also being some semblance of lawmaking on their part. In the very act of governing, rules must be issued, promulgated, and enforced, even if they are only temporary edicts and decrees. Men and laws are always somehow implicated in the operations of government.

The real issue is seen only when the fundamental alternatives are expressed in the following manner. *Either* no man is above the law and no man can make or enforce a law except in a manner prescribed by law itself; *or* some men are above the law, and these men can make and enforce rules in any way they choose, without any norm of legality to check them and without any method except violent rebellion to nullify the rules they make.

In a nonconstitutional government, some men one or more, though usually only a few are above the coercive force of law. No sanctions are available to enforce the law against them. This holds for government by absolute monarchs, by dictators, by tyrants, by despots; and it holds whether or not the government is benevolent and just, as it may sometimes be in the case of despotism, or unjust as it always is in the case of tyranny. Absolute government exists whenever some men arrogate to themselves a

status that does not rightfully belong to any man the status of sovereignty, which is nothing but the condition of being above the coercive force of law. Such men assume a kind of *personal* sovereignty which counteracts the sovereignty of the community itself. The sovereignty of the community is effectively paramount only when it reigns over every man in the community *without exception*, as is the case, for example, in the United States.

When the men exercising governmental authority and power are above constitutional limitations, there is no positive limitation upon what can and cannot be made a law, and there is no positive limitation upon the way in which laws shall be administered or shall be changed. Hence, the laws of a nonconstitutional government, the so-called "laws" of a dictator, of an absolute monarch or a despot, are really not laws at all but only the decrees or edicts of men exercising personal power. They look like laws. They have certain qualities in common with laws. They have generality and coercive force. They are rules of public conduct, made by someone in power and with some portion of authority. But they lack that which is essential to the rule of law the norm of legality which we ordinarily describe as due process of law.

In constitutional government the manner of making and applying and enforcing laws is itself determined by a law which is binding upon the governing officials, and is capable of being enforced against them by the community, through the operation of other governmental agencies. The fundamental law which establishes the lawmaking and the law-administering processes of the community is itself positive law. It is voluntarily instituted by the community; it is an expression of their will as well as of their reason; and, unlike natural law, it can be upheld against all offenders by the application of the community's coercive force. This fundamental positive law is the constitution. We see at once that the two major facts about constitutional or legal government are, first, that the coercive force of law applies to all men, in public office as well as in private life and, second, that a standard of legality determines the due process of making, changing, and administering laws.

It follows from the foregoing that government can be either imperfect or perfect imperfect if nonconstitutional; perfect, if constitutional. It would be contrary to the facts of political history to say that only constitutional government is government. Until fairly recently, constitutional government has been the exception rather than the rule. And it would be false to say that where men have lived under one or another type of nonconstitutional or absolute government, no community existed. It seems to be much more accurate to divide government into perfect and imperfect government, according as government realizes or does not realize the full nature of the principle of government which is the expression of the sovereignty of the community.

When government is imperfect because insufficiently legal, it is an imperfect instrument for maintaining the peace of the community. To the extent that the ruled, the governed, have no legal redress against injustice on the part of their governors, to the extent that their governors are above the coercive force of law and are not limited by due process in the making of laws, the violence of armed rebellion is the only

method by which one part of a community can carry on its political disagreement with another part.

A peace which can so be broken is an imperfectly made peace. The institutions of imperfect government seem to be inadequate to the task of solving all social problems peacefully. In so far as imperfect government is government, it does keep a kind of peace and does maintain a kind of community. But, in so far as it is government by men and not by law, the peace it keeps is as imperfect as it itself is. Only the rule of law, only government by law or constitutional government, is an adequate cause of perfect peace, because only such government is able to provide all the means needed for a peaceful settlement of every kind of dispute that can arise among men living together.

It should be noted in passing that rebellion is not the same as war. Rebellion, like crime, is a breach of the peace, however tenuous that may be. War between nations is not a breach of the peace, because so long as there are sovereign nations there can be no peace between them but only a temporary cessation of hostilities that should be called an armed truce, not a condition of peace. Rebellion, albeit violent, may be the inevitable expedient by which a community improves its political condition, perfects its government, and so achieves a more perfect peace. Not all rebellions are justified by grievances, but most of the many rebellions which history records have been justified. They were fought for the improvement of the community in which they arose. They broke the peace in order to establish a better peace. But international war breaches no peace, and establishes no peace in consequence. When war occurs between nations, no peace is broken, and so no peace is restored or perfected.

My third general point is that natural law, though indispensable to government by law, is by itself totally inadequate for the maintenance of a community or for the preservation of peace.

For the purposes of this discussion, we shall consider natural law in a very restricted sense. By "natural law" we shall understand only those principles of justice that have no authority except the voice of reason itself. Natural justice is not legal justice. The principles of natural justice do not have to be instituted by human government. They arise from the nature of man and of society. If man were not by nature a rational and a social animal, there would be no natural justice.

The principles of natural justice can be briefly stated in the following manner: that equals shall be treated equally; that the inequalities they suffer shall be rectified and equalized; and that to each man shall be given what is due him both according to his nature and according to his works.

It is in terms of the principles of natural justice that men have natural rights, the violation of which is injury or injustice. Without the principles of natural justice, there would be no meaning to the notion of natural right. And without the notion of natural right, there would be nothing but force to settle disputes, nothing but power, nothing

but pressure and prejudice. There would be no ground for trying peacefully to arbitrate disputes. Just as the constitution provides the norm for determining due process of law in all the acts of government, so the principles of natural justice provide the norm for determining whether the constitution is itself just or unjust. We speak of laws as constitutional or unconstitutional, but we cannot speak of a constitution as constitutional or unconstitutional but only as just or unjust. And, since a constitution is itself something made, since it is itself positive law, there must be exterior and antecedent to it a norm for determining its legality.

Let us consider, for example, the oligarchical constitution. Though it was not always recognized to be oligarchical, that was the character of the constitutions of all the city-states of Greece, of republican Rome, and of all the constitutional or quasi-constitutional regimes in the Middle Ages. The constitution of England today is oligarchical, and so, as a matter of practice, is the Constitution of the United States, though perhaps our Constitution is, on paper at least, almost free from the errors of oligarchy.

The oligarchical constitution is unjust because it does not distribute the fundamental status of citizenship to all men equally but gives the wealthy or the noble-born special privileges and powers to which they have no natural right. There is no rule of positive law which tells you that the oligarchical constitution is unjust. There is nothing in the constitution itself that will tell you this. You know this only by knowing what the natural rights of men are, by knowing, for instance, that the poll tax is a violation of such natural rights and an expression of oligarchical injustice.

Now, if the constitution is unjust, government and law will not protect natural rights; and, when natural rights are not protected by legal means, those who are injured by the injustice of government have no peaceful method of redress. Only violence remains to them as a way of gaining what is their just due.

In order to sustain the peace and order of a community, not only must laws be constitutionally made, but through the justice of the constitution itself they must be justly made. The point is not that one can hope to avoid all injustice in the relations of men, or in the relation of government to the governed. That is utopian folderol. The point is rather that the injuries and injustices, the violations of natural right that will inevitably occur in the intercourse of men, can be peacefully, as opposed to violently, rectified only under the agencies of constitutional government and only in proportion as the constitution itself embodies and gives force to the principles of natural justice. When, for example, a substantial portion of the population are disfranchised, they lack, by that very fact, the constitutional status needed to exercise juridical powers in defense of their rights. They have nothing but force to employ against injustice and oppression.

But though the principles of natural justice are indispensable, they will not by themselves suffice. Positive law will not do its work for peace unless it somehow tends to become a more and more perfect embodiment of natural justice. The legal

positivist is wrong if he supposes that law can perform its mission without any recourse to anterior principles of justice. But equally wrong is the naturalist, or the legal idealist, who supposes that the principles of natural justice by themselves, without law and government, suffice for the maintenance of the human community and for the preservation of its peace.

The principles of natural justice are absolutely general, and as such they are indeterminate. They do not specify particular acts to be done or to be avoided, nor do they specify and provide particular measures for rectifying injustices. The rules of positive law are precisely such determinations. They are concrete particularizations of the principles of natural justice, thus enabling these principles to direct the affairs of a particular community in a manner befitting the contingent circumstances of its historical character.

The principles of natural justice bind men only in conscience, and hence bind only good men. If all men in the human community were men of good will, the principles of natural justice might suffice. But we know that this is not the case. We know that some portion of the community is always in need of restraint or coercive force; some portion of the community is always either actually, or on the verge of, committing crimes. The governing rules of the community must, therefore, exert the coercive force of externally applied sanctions. But only rules of positive law, rules instituted by a government, can have such force. The rules of natural law, not instituted by any government, have no coercive force whatsoever.

If men were angels, the principles of justice might suffice to govern them and to maintain the peace of their social life. But men are not angels; moreover, few men are men of good will in the fullest sense; and so coercive force, the force of externally applied sanctions, is needed to make justice rule the affairs and actions of men.

One might also go on to say, with Hamilton, that if men were angels, no government would be necessary that is, no government which combined the rule of positive law with the coercive force needed to sustain this rule. On the other hand, if men were brutes, no government would be possible, for, without reason, only force would be left. Government is not the exercise of brute force but rather the use of force to support the rational process of lawmaking and arbitration.

Because men are neither angels nor brutes, because they are rational animals, human government combines might and right, force and reason, and neither the one nor the other by itself is sufficient to maintain the existence of a community or to preserve its peace.

From all this, it will be seen to follow that, among angels, war is impossible, just as among brutes peace is impossible. What happens in the jungle at regular intervals is not peace but merely the truce that momentarily prevails among well-fed beasts. Because men are rational animals, both war and peace are possible in human affairs. This double possibility is perfectly evidenced by the facts. Peace does exist within

particular communities, imperfect or perfect peace as the case may be; and between communities war exists, for between communities nothing but war can ever exist, war or temporary truces in which there is time for rearmament.

My fourth point is that international law is not positive law and therefore does not establish that rule of law which is necessary for the creation of peace among nations.

Positive law is an appendage of government. Where no government exists, no rules of positive law can be made or enforced, for without the establishment of government there is neither the authority nor the force required for making positive laws or for their application. No international community exists, because no single government exists whose rule of law establishes such a community.

The so-called “international community” and, I think, there is no more deceptive phrase in current jargon the so-called “international community” is nothing but a set of sovereign nations or peoples or communities, the set forming a “community” only in the sense that these political units live in the same world and “try” to have intercourse with one another. But if the existence of a community as a peaceful unit requires government, and if sovereigns cannot be under government and remain sovereigns, then it necessarily follows that so long as a number of political units retain their absolute and unqualified sovereignty, in no way limited or abridged by a superior sovereignty, the so-called “international community” is nothing but the chaos of anarchy, in no way different from the anarchic condition of individual men who tried to live together without the institution of government and without its instrumentalities.

The fallacy of supposing that international law and international courts and all the other pretensions of international arbitration can effectively set up and preserve a condition of peace among sovereign nations is allied to the fallacy of supposing that natural law is sufficient for the government of men. The maxims of international law, from the day of Grotius to the present day, are nothing but moral precepts ultimately deriving their authority from the principles of natural justice but having no coercive force from positive institution by government. International law is no better than a treaty between nations, and a treaty between sovereigns is no better than a scrap of paper.

My fifth point is that war and conquest are the natural consequences of anarchy.

If individuals could not go to court to arbitrate their disagreements about what is or is not due them, and if, furthermore, they were not subject to the coercions of police power, when the court’s decision was against them, they could only fight for their rights. And they would fight for what they claimed to be their rights whenever the issues were sufficiently serious to make the risk worth undertaking.

Nations or communities which are absolute sovereigns are in exactly the same position that individual men would be in, if they tried to live anarchically with one another. Nations or communities which are sovereigns do not live together under government

or under the reign of positive law. They are, therefore, always potential belligerents, and, when they are not actually at war, they remain potentially at war with one another. International diplomacy of the sort in which we engage as well as the sort in which Japan or Germany engages is a continuation of the war between nations during a period of truce. This is just as true as von Clausewitz's maxim that overt war is merely the fulfilment of everything that is latent in international politics. War is the continuation of international diplomacy, because international diplomacy cannot help being preparation for war.

Power politics is merely a polite name for the kind of war that goes on between nations during the truces that interrupt armed conflicts. A treaty does not make a peace between nations. It makes a truce or an armistice. A treaty is, at its worst, a pact imposed by the conqueror on the conquered. At its best, it is a gentleman's agreement between brutes who have beaten each other temporarily to their knees, and who will not remain gentle any longer than their temporary impotence compels them to. A pact imposed by the conqueror is no more a peace than the agreement forced by a stalemate is the institution of government.

Nevertheless, it is true to say that military conquest does reduce the extent of anarchy in the world. The larger the dominion of any one power, no matter how it is achieved, the wider is the area of government and the fewer the number of anarchic communities. Push this point to its limit, and you will seem to reach the conclusion that world peace could be established by world conquest, for by world conquest the anarchy of a plurality of autonomous sovereign nations would be overcome. There is a certain truth here which must not be overlooked. But neither should we overlook the error, which consists in failing to see that by conquest one gets government by force alone, necessarily nonconstitutional government and so unable to establish anything except a very imperfect peace that will before long be broken into a thousand fragments by violent rebellion on all sides.

Keep the truth of this point and correct the error, and you will reach the conclusion toward which this whole analysis inevitably tends. Let me now state that conclusion as inescapable.

The rule of law that is, just constitutional government is the indispensable condition of peace in any community, however small or large, from the smallest tribe to the as yet nonexistent community of all men on the face of this earth. The threat of civil war or violent rebellion is never removed so long as the constitution remains fundamentally unjust, so long as political or economic injustice is embodied in the laws; for, so long as that is the case, men will have to resort to violence in the defense of their natural rights. But even though the class war continue after world government is set up, a single world government, a constitutional regime enforcing one rule of law on all men everywhere, is, nevertheless, the indispensable condition of world peace.

Peace is positive and war is negative. Rebellion is a breach of the peace. International war signifies the nonexistence of any peace to break. All the causes usually assigned


for the occurrence of war account merely for the origins or circumstances of a particular conflict. None of them by itself is, nor are all together, the cause of war, for the only cause of war is the lack of the one condition that is needed to maintain peace namely, constitutional government and the instrumentalities of positive law.

It is folly to suppose that men must become angels to live at peace with one another. It is folly to suppose that peace will occur only when all the causes of disagreement or conflict among men are removed. That would be tantamount to making peace depend upon the assumption of angelic perfection. That that is not so is plainly shown by the fact that within the smaller communities which are now established under government, all the causes of disagreement or conflict are operative, and yet there can be peace in these communities, because the rule of law provides a way of preventing these conflicts from demanding violent resolutions. The institutions of law do not remove the causes of conflict among men. They merely provide a way of resolving these conflicts peacefully.

There is no distinction between peace and perpetual peace, so far as the cause of peace goes. What is not established in such a way that it can be perpetual is not peace but merely a truce; and, just as peace must be, by its very nature and by the operation of its causes, capable of perpetuity or permanence, so it must be universal. A partial or limited peace is not peace on earth but only a peace within the borders of some particular community, and, when that is the case, the interior peace of that community is always threatened, always subject to disturbance and violation, by the fact that this community lives in a state of anarchy with other communities with which it is always potentially at war and most of the time is actually so. No community can have peace in the full sense until the world is one community, established under a single government, exercising the authority and force of government through due processes of law.

Finally, let me make two predictions. The first is that the motion of history is toward the community of the world and toward a perpetual and universal peace which will some day be established by the constitution of a single government in which all men will participate. But my second prediction is that peace will not be made at the end of this war. What will be made will be another truce, perhaps on a larger scale and with more deceptive talk than ever before about covenants and world courts, but a truce nevertheless, and not a peace. That means that the warfare of the diplomats will continue after the guns have ceased firing. That means another war at a not too distant future.

The reason why I am so insistent on a clear perception of these fundamental truths about war and peace is that I think they may save us from childish illusions and from tragic disillusionment. The ideal of peace is what we should aim at, but if the realities prevent us from attaining it at the end of this war, we ought to face those realities squarely; we ought not to deceive ourselves into thinking that we have made a peace that will endure when in fact we have not even made the beginnings of a peace. However unhappy the thought, we should then prepare our children for the ordeal of

another and worse war than the one we are now fighting for the sake of liberty, justice, and peace. 

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