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Lutheran Principles in Government

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LUTHERAN PRINCIPLES IN GOVERNMENT

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by

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INTRODUCTION

Because of the recent major upheavals in government and the excesses to which governments have gone even in so-called Christian lands, it has become necessary for Christians to examine their principles of government--to reexamine them in the light of recent experiences and in the light of what can happen. Lutherans especially, because of Luther's reticence to oppose duly constituted government with anything other than the preaching of Law and Gospel, have been accused of holding to theories which would lead to the ultimate destruction of civilization.

For this reason it has been my aim to show from Scripture and from those who have manifested a willingness and desire to be guided by God's Word that Lutherans do not hold an idolatrous attitude toward government. On the contrary, following the guidance of Scripture and the interpretation of events in the light of God's will, a Lutheran will have such principles of government that will make him both the best citizen any government can have and a powerful factor in keeping the government within its proper limits.

This is not intended as a ready made answer to every situation in which we find ourselves in relation to state and government. It is hoped that it will establish each individual's responsibility to God, which can be shown only in actions to the community, so that men cannot excuse their lack of sympathy with their fellowmen or, worse still, their overt acts of injustice and brutality by "reasons of state."

CHAPTER I

THE ORIGIN OF GOVERNMENT

When we are asked to take an attitude toward something, we like to know what it is. An institution's origin is usually included in its definition. When we look for a basis of principles in government, we naturally ask when and how government originated. This question immediately brings us face to face with a mystery. Wherever there are people, we find government. Government is not something that we Christians are trying to bring about. It is an established fact. To find the answer to the question of the origin has not been simple for men. In seeking the solution to this mystery, men have proposed several theories.

Perhaps the oldest theory and one that claims to rest on historical data is the Patriarchal Theory. According to this theory, government grew out of the family, the father, or eldest, being the ruler of the family. As the family grew into a clan, the clan into the tribe, the tribe into the nation, the authority of the elder was transferred from the smaller to the larger unit. Though there may be some basis of fact in finding the origin of government in the family relationship, this merely states the fact but does not answer the basic question of government. It does not tell us why it happened and why people submitted to the arrangement.[1] Nor does this theory take into consideration that the two institutions, the family and the state are essentially different:

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[1]A. M. Rehwinkel, "The Christian and Government," Concordia Theological Monthly, XXI, No. 8 (May, 1950), 335.

> In the family the location of authority is natural, i.e., in the father. In the State it is one of choice. Subordination is the principle in the family, equality that of the State. Furthermore, the functions and aims of the family are essentially different from those of the State. The family exists primarily for the biological perpetuation of the race; not so the State. The individual family is of comparatively short duration; the State is perpetual.[2]

The Natural or Instinctive Theory finds the solution to the question in the "natural sociability of man." In an excerpt quoted by Rehwinkel, Bluntschli sets forth the theory and at the same time shows how unsatisfactory it is, since it leaves us with too many unanswered questions:

> We have still to discover the common cause of the rise of States as distinct from the manifold forces in which they appear. This we find in human nature, which, besides its individual diversity, has in it the tendencies of community and unity. These tendencies are developed, and peoples feel themselves nations and seek a corresponding outward form. Thus the universal impulse to society (Staatstrieb) produces external organization of common life and the form of manly self-government, that is, in the form of the State.... Here we have indeed the cause of the State, that is, the natural elements in human nature which urge its establishment and maintenance. But this theory is not the real answer to our problem. It does not answer the question how its empiric manifestation is brought about, nor show the manner in which its control over the individual may be harmonized with the latter's natural freedom. In a general way this was the view of the Greeks, who considered political authority almost a metaphysical necessity arising from the social life of man, as existing in and of and for itself and as determined by the very nature of things.[3]

The theory which dominated political thought during the Eighteenth Century and which led different thinkers to different conclusions is the Social Contract Theory. Thomas Hobbes (1588-1678) was the first great exponent of this theory. In his view the primitive law of self-preservation led to a condition of anarchy, lawlessness, and universal conflict:

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[2]Ibid.

[3]Ibid., p. 336.

Every man's hand was against everyone else. To put an end to such a reign of anarchy and to save the race from self-destruction, men agreed by a free covenant or contract to create a government for the establishment of peace and order. To make such a government possible, everyone agreed voluntarily to surrender his own rights and powers and to subject himself to such unified sovereignty and power. In return for the surrender of all personal powers and rights, the government would guarantee security to every individual or the contracting groups. But this could be done only if the government be invested with power strong enough to keep in check all individual powers. Hence, the more absolute the power of the State, the better will it be able to fulfill the purpose for which it was created. From this contract the rights of absolute monarchy are deduced. The contract once made not only gives the ruler absolute power, but all rights of revolution on the part of the people are, according to Hobbes, forever lost. By this contract the ruler becomes "that mortal God to which we owe, under the immortal God, our peace and defense."[4]

Strangely enough this same theory provided the theoretical arguments for the French Revolution and other political upheavals. And in America the Contract Theory is recognized in the Preamble of the Declaration of Independence and explicitly accepted in almost all of the State Constitutions of the United States.[5]

The theory of evolution did contribute to the Social Organism Theory. Herbert Spencer declared that under the same law of slow and progressive evolution, the individuals are brought together to form a social organism. He saw political organization as "a link in the evolution process: first man, then marriage, then the family, then the tribe, and finally the State."[6] The answer to this theory cannot be given better than in the following paragraph:

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[4]Ibid., p. 337.

[5]Ibid.

[6]Ibid.

This theory requires no refutation. The evolution of man is a myth and not a fact. "If savages," writes Max Mueller, "means people without a settled form of government, without laws and without religion, then go where you like, you will not find such a race." And, continues Osgniath, "nor has ethnology been more propitious to Spencerian evolution. In vain have all the continents been traversed, from the forest of South America to the farthest parts of Greenland; from the Eskimos to the Hottentots; from the Hindus to the savage tribes of Africa; the answer has always been the same: among all human races no vestiges of subhuman have been found. All the numerous and insistent attempts to prove the animal descent of man, as Spencer conceives it, have failed, because it is impossible to obliterate the differences, not of degree, but of kind, which separate man essentially from the brute."[7]

Machiavelli proposed the crudest and for a long time the most commonly accepted theory, when he propounded the theory that "might makes right." This Force Theory claims that government grows out of force, that is, when an individual, or a group, or an invading power, "is able to force his will upon a group of people, then a de facto and a de iure government has been established.[8]

The Communists have their own theory of government, though they practice the doctrine of Machiavelli. They call government an instrument of the ruling class to keep the proletariat in subjection.[9] No-one demonstrates this more completely than communist governments. Claiming that this is an outgrowth of the capitalistic system, they say that all forms of government will "wither away," when communism has established a classless society.[10]

Though there is no room in the Christian's philosophy of government

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[7]Ibid., p. 338.

[8]Ibid.

[9]Ibid.

[10]Ibid., p. 339.

for the communist theory and the evolutionistic theory, they can see how the Lord could use any of the other methods to bring about the government which man needs; as means they do not conflict with the Christian theory of government, which is deduced from Scripture, and is also often called the Biblical Theory. In Scripture we find the only satisfactory theory, which clearly tells us that government is ordained by God.[11] Specifically, the Lutheran doctrine of government is based on two passages of Scripture, Romans 13:1-7 and 1 Peter 2:13.14.[12]

Although both Paul and Peter remind us that government is a divine institution, neither they nor any other Biblical writer tell us where or when, or even how, God instituted government among men. They all just take it for granted.

Brunner points out that the state is as ancient as history. All that history can prove is that the state is there and has been there.[13] It is something that a Christian must order his life by as a given rule. Dr. Willoughby goes a little further when he says that history affords no definite information on the beginning, the absolute origin of political authority among men, and that there is no indication that any more light is forthcoming.[14] Biblical records take us back to the time of Nimrod for their first mention of the subject. But that's all it does. It just says that he established his kingdom at Babel.[15]

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[11]Rom. 13:1 ff.

[12]Rehwinkel, op. cit.

[13]Emil Brunner, The Divine Imperative, translated by Olive Wyon (Philadelphia: The Westminster Press, c.1947), p. 441.

[14]Rehwinkel, op. cit., p. 334.

[15]Gen. 10:8.

Brunner likens the growth of the state to the growth of forests and mountains. When we meet it, it is a fact, and its formation carries with it a sense of Fate usually associated with Facts. But he also finds in it a "manifestation of spiritual forces and purposes, the bearer of culture, the guardian of justice and of human values...the creator of community."[16]

Luther's view is what would be expected of one who so devoutly puts everything in the hands of God, and, wherever possible looks to His Word for guidance and information. For Luther the civil government is the visible order which God has inaugurated for the sake of His Church to preserve the world against the devil. To preserve the world after the fall, the civil sword of government is in the world by the will and order of God.[17] He says the same thing in another way, when he calls government an arrangement established by the grace of God to preserve the world against sin.[18]

By these statements Luther adds the purpose to the words of Paul: "for there is no power but of God: the powers that be are ordained of God."[19] In view of a statement so plain, it is evident that whatever theory of government origin a Christian adopts, it must be a theory in harmony with the statement of Paul. Any theory that overlooks the hand of God in government is untenable. The same is true of any of the accept-

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[16]Brunner, op. cit., p. 443.

[17]Harold Diem, Luthers Lehre von den zwei Reichen (München: Chr. Kaiser Verlag, 1938), p. 63.

[18]Ibid., p. 65.

[19]Rom. 13:1.

able theories, if they are viewed as excluding the consideration of God. A contract between men, for example, can never overlook the aim of God. We must remember, however, that though civil government is ordained by God, it did not come immediately from Him, but came, in one manner or another, through the people.[20]

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[20]Rehwinkel, op. cit., p. 341.

CHAPTER II

THE PURPOSE OF GOVERNMENT

Just as men have invented origins of government to fit their own particular views of government, so have they also sought to establish various purposes of government. The world is still suffering under the most vicious of all these theories, that propounded by Machiavelli. He made the state its own end when he said that the state exists for its own sake. Under his theory people became unimportant as people and were of importance only as they might further the interest of the state. The preservation of state became so important that only that was considered moral for the state which aided the state's preservation or advantage.

> Machiavelli was opposed to the medieval conception of religion and the Church as the culmination of civilization. He said that the State exists for its own sake, whether republic or monarchy, lives its own life, aims at its own preservation and advantage, and is not bound by the obligations which determine and should determine the action of private persons. (Lord, "Principles of Politics," p. 18) For him the State is outside the realm of moral relations. If cruelty and treachery are useful, no hesitation is to be felt in using them. The means are indifferent, for the end justifies the means.[1]

No thinking Christian could regard as a representative of the Almighty God a state functioning only for its own sake. When Staatsraeson is limited to that which is of direct advantage of the state, then "reason is bereft of its sovereignty and subjected to the hegemony of necessity

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[1]A. Adams, "St. Augustine's Doctrine of the State in Relation to Some Modern Theories of Sovereignty," Anglican Theological Review, VI (October, 1923), pp. 113-14.

from whose blindness it is its very function to deliver us."[2] In other words, the state thereby becomes guilty of those passions of selfishness against which it is the duty of the state to guard its subjects. It makes of the state an organized machine differing very little, if at all, from the organized gangs of criminals. Both of them feel justified in resorting to anything which will be of advantage to themselves, regardless of the rights and feelings of anyone else. At its worst, it is no better than the bands of organized crime. At its best, it leaves its subjects in a state of fearful uncertainty. It is only against this phenomenon as a background that one can understand the apparent contradictions in Luther when he speaks on the subject of government. Carlson pointed to it when he said:

> By the exclusive use of carefully selected passages, one can prove that Luther regarded secular rulers as instruments of the devil and the adversaries of his cause; and one can prove that he regarded them as instruments of God who could do no wrong.[3]

Under the first class we must remember that he placed all those who disregarded the authority of the Creator, and under the second group those who were occupied in maintaining the order characteristic of God's creation. We must never lose sight of the fact that while Luther had the highest regard for the order established by the political rulers through their power and authority, he was just as emphatic in his assertions that their regime was created and that as such it is subordinate to the Creator.[4]

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[2]Eivend Berggrav, Man and State, translated by George Aus (Philadelphia: Mühlenberg Press, 1951), p. 32.

[3]Edgar M. Carlson, "Luther's Conception of Government," Church History, 15, 4 (December, 1946), 257.

[4]Ibid., p. 265.

All who accuse Luther of making an idol of government and an end in itself fail to take account of what he said and taught. They base their conclusions on results brought about not by Luther's teachings but by later perversions of them or with actual breaks from his line of reasoning. Just as strongly as he maintained that the government is in the world by the will and order of God, so strongly did he also assert the civil government is the visible order which God has inaugurated for the sake of His Church—to preserve the world against the devil.[5] He expressed the same thing in another way when he said that the government is established by the grace of God to preserve the world against sin.[6] There is certainly no basis in these words for the assertion that Luther made an idol of government—that he made government its own end.

I believe that it can be said truthfully that Luther's high regard for government grew from his conception of the purpose of government and not from his awe for its persons. For Luther the local police officer, one's parents, school teachers the political institutions of state and nation, the entire ordering of society—all these are means through which God approaches us.[7] It was no hazy mystical approach for Luther either. God approaches us through these agencies in order to govern our activities. Carlson expresses this attitude of Luther again when he points out:

> According to Luther the home and family into which one has been born, the school which he attends, the local magistrate, the job which he

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[5]Harold Diem, Luthers Lehre von den zwei Reichen (Munchen: Chr. Kaiser Verlag, 1938), p. 63.

[6]Ibid., p. 65.

[7]Carlson, op. cit., p. 262.

is assigned in the community, all the instituted authorities by which activity is governed--these are "masks of God."[8]

Luther became more specific as to what task the state was to perform. He said, "The state is God's servant and workman to punish the evil and protect the good."[9] In this statement Luther also reveals the source of his ideas on the purpose of government. It is almost the same thing that St. Peter says when he calls governors "them that are sent by Him for the punishment of evildoers, and for the praise of them that do well."[10] Paul assigns to the civil authorities the same duties when he calls them "God's agents to do you good," and "God's servants, to execute his wrath upon wrongdoers."[11] These statements of Scripture define the purpose of government very clearly. Whenever government defies these rules it is defying God's plan of preservation. The New England clergy before the time of the revolution took this so seriously that they believed that a government which did not have the good of the people at heart did not have the sanction of God. While the good of the people might be interpreted variously, it assured, at least, the protection of their natural rights.[12]

We must remember that the above statements say that the state is the <u>agent</u> of God, when it punishes the evil and rewards or encourages the good.

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[8]<u>Ibid</u>., p. 261.

[9]<u>Ibid</u>., p. 260.

[10]1 Peter 2:14.

[11]Rom. 13:3,4.

[12]Alice M. Baldwin, <u>The New England Clergy and the American Revolution</u> (Durham, N. C.: Duke University Press, 1928), p. 23.

This does not mean that the state determines what is good and what is evil. Such an office is entirely out of its field. The state officials must be taught to discern between good and evil deeds, but the state is not the creator or measurer of justice, but the guarantor.[13] Whenever the state undertakes to enter into the manufacture of laws that disregard the fundamental "right and wrong," then that state has overstepped the bounds of the purpose for which it was created.

It is, however, much too narrow a view of government to claim that it should function only as police and court. More than that, God has established government so that society can achieve, as much as is possible, a perfect accord of life with life.[14] The government should have as its aim to do everything it can do in order that its citizens may achieve a tolerable accord with each other.[15] In this category would fall such things as the building of roads, the disposal of garbage, anti-noise laws, and many such. Anything that a government can do to further harmony in its community is in the interest of the state and well within the purpose for which it exists.

Brunner also recognized this wider sphere of action for the government, more than just a growth of power over certain good or bad actions.

> Like the growth of a forest or of mountains the formation of the State carries with it a sense of Fate which we associate with mere facts. But it is also a manifestation of spiritual forces and purposes, the bearer of culture, the guardian of justice and of

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[13] A. M. Rehwinkel, "The Christian and Government," Concordia Theological Monthly, XXI, (May, 1950), 343.

[14] Reinhold Niebuhr, The Nature and Destiny of Man (New York: Charles Scribner's Sons, 1951), II, 200.

[15] Ibid.

> human values against arbitrary violence, and the creator of community in a human society which would otherwise dissolve.[16]

The state cannot at the same time be the "guardian of justice and human values" and an institution which exists and governs only for its own sake. A state which does not guard justice and human values but makes the individual a mere unimportant molecule in the body of state--such a state is not fulfilling the purpose for which God created the state.

Berggrav may have found a word which is descriptive of the ideal of government. However well it may have conveyed his thoughts in his native tongue, it has evidently suffered much in translation. His illustration is good, if understood correctly and not confused with the contract theory of which he is not an advocate.

> The little word "wave" is the key to the mysteries of radio. If we want the keyword to society then "reciprocity" is the word we are looking for. The fact that some people "come together" and form a society must mean that they belong to each other. They don't merely function as individuals but as component parts of a whole.[17]

According to this view the government becomes the agent whose purpose is to see that each individual carries his burden, does his duty to society in an enterprise undertaken jointly. However, a contrary to the contract theory, this enterprise is not undertaken deliberately. When people are born, they are born into the state. There is no choice in the matter. Membership in many other organizations can be a matter of choice, there is no choice of membership in the state.[18] It is because this joint

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[16]Emil Brunner, The Divine Imperative, translated by Olive Wyon (Philadelphia: The Westminster Press, c.1947), p. 443.

[17]Berggrav, op. cit., p. 6.

[18]Rehwinkel, op. cit., p. 342.

enterprise is not optional that God had to give us government to see that the unwilling did not interfere with the willing, and thus destroy society within which God's Church exists. We all know that we are far from an ideal state of cooperation among the citizens of any nation or state. We also know that it is impossible for the state to bring about this ideal cooperation by force or by any other means. There will always be some who because of sinful selfishness or other evil motives will make such a state impossible. But it is the duty of the state to see to it that human rights have ample opportunity to develop and to keep this group of non-cooperatives from interfering.[19]

Broadly speaking, the basis of government is most acceptable which will best preserve God's creation and insure the free course of the Gospel. If it then also best serves the free dissemination of information and ideas and the growth of institutions that are inimical to the Gospel, that must be suffered, since it is not the business of the state to promote any special kind of religious teaching. It is the state's function to protect and promote all other forms of human association,[20] provided the aims of that association are not detrimental to the existence of the state or the welfare of the people. Other associations include besides religions such things as medical associations, welfare societies, insurance companies, businesses. We should note well that the government is to protect and promote these associations, not to control or run them. This does not mean that the government is to let them operate under the system of

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[19]Berggrav, op. cit., p. 191.

[20]Ibid., p. 63.

laissez faire, regardless of how much damage they may be doing to any other part of the citizenry. All these associations must be held accountable to the government, which is the guarantor of the rights of the people. If they are doing evil, they must be punished by the state as evildoers.[21]

The American colonies recognized this purpose and function when they formulated the national constitution. They set down the principle: "To the individual what belongs to him and to the community what belongs to it."[22] The same principle was valid for the state as well as for the individual. Each man retains his freedom as long as it doesn't violate the interest of the community. This is in conformity with the highest purpose of the state, the protection of the individual and the guarantee to him of his natural rights insofar as they do not interfere with the rights of others. This is also in conformity with the Christian principle of bearing one another's burdens, recognizing that we are one of a community.[23]

But even Christians can lose sight of this at times. The fact that we need the state is not due solely to the non-Christians. Christians would also infringe on the rights of others, if we did not have the state to protect us from each other, and knowing this we ought to be humble and grateful for the state, which we "inherit as a gift of God, as a divinely salutary means of discipline."[24] Viewing the state which God has given us, the Christian has no reason to feel self-righteously that it serves

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[21]Rom. 13:3,4.

[22]Berggrav, *op. cit.*, p. 117.

[23]*Ibid.*, p. 118.

[24]Brunner, *op. cit.*, p. 446.

no good purpose or that it is an instrument of evil. We must wholeheartedly agree with Brunner:

> It is impossible for the Christian to deny the necessity of the existence of the State, but must, in spite of everything, thank God for it as a divine gift. All need the State, even Christians, as a protection against our own unrighteousness.[25]

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[25] Ibid., p. 461.

CHAPTER III

THE MEANS OF GOVERNMENT

The means by which government exercises its authority is its law, but law backed by power. This power we call sovereignty. What is meant by sovereignty? Whence is sovereignty? This sovereignty must be exercised by law. What do we mean by law? Whence is law?

If everyone were a Christian in a perfect state of sanctification, then we could be governed solely by the law of Christian love. But we haven't quite reached that one hundred per cent in the world as yet. For this reason, love is not a sufficient basis for implementing the mutual acknowledgement of obligations to society. The state must have power to compel obedience, which is contrary to the law of love.[1]

But the state and its officials dare not be guided only by arbitrary decisions. They must be guided by something more universal and normative. This guide we call law. This was pointed out long ago by the Lord to Moses' successor, Joshua. When Joshua succeeded Moses, the Lord commanded him: "Only be thou strong and very courageous, that thou mayest observe to do according to all the law, which Moses my servant commanded thee."[2] The general tenor of these laws is given by Paul when he calls rulers a terror to evil works and not to the good works.[3] They are to be based on

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[1]Emil Brunner, The Divine Imperative, translated by Olive Wyon (Philadelphia: The Westminster Press, c.1947), p. 445.

[2]Joshua 1:7,8.

[3]Rom. 13:3.

the welfare of the state, provided you understand the state to mean the people over which the state rules, and not just the abstract idea of a peopleless state, as so many are inclined to do.

This is a far cry from Machiavelli's proposition that law can be created only by the man who has the power to dictate. He saw the laws merely as a codification of national interests, which eliminates everything irrational, ethical, humanitarian. Basically, it makes of law merely the mathematics of force. Under such an idea there is no room for such ideas as "the sense of justice" or "justice as a transcendent reality sovereign over all."[4] It was the acceptance of such debased philosophies as this that made possible the bloody excesses of governments for centuries that finally culminated in Hitler. Modern jurisprudence, which largely follows the above theory, logically led to conclusions of the most extreme totalitarianism.[5]

This is far from the conclusion arrived at by Heinecke, who saw the function of the state to be the protection and promotion of all other forms of human association, and not as something existing for its own sake.[6] This makes the basis of lawmaking far different from a state which seeks only its own perpetuation and advantages for its rulers under the guise of "welfare of the state." There are laws that were in existence long before any law was ever written or even orally proposed. These are the laws of existence, which dare never be made merely secondary, when

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[4]Eivend Berggrav, Man and State, translated by George Aus (Philadelphia: Muhlenberg Press, 1951), p. 38.

[5]Ibid., p. 38.

[6]Ibid., p. 63.

the state makes its written "laws."[7] That such a natural law exists no rational person will deny. In addition, a Christian has testimony from the Word of God that such a law does exist. This natural law "written in the hearts by God" must supply the norm for all legislation, judicial systems, and institutions. It is when guarding and implementing this law that the state is functioning as the minister of God to us for good.[8] Mankind has no jurisdiction over this law, but is subject to it. This subjection includes also those who make the laws under which a state is to function. This is amply attested to when the Lord calls those who justify the wicked and condemn the just an abomination to Him.[9] It would be the narrowest literalism to maintain that this does not apply to laws giving advantage or occasion to wickedness and penalising the exercise of just endeavors. It should not be necessary to bring the matter up, but it is vitally necessary. That is, just as no pressure group must be allowed to dominate any area of public development or welfare,[10] so no laws must be passed which favor any group. In this connnection it might be well to review all the property and exchange laws both of this country and others. That, however, is outside of the scope of this paper. That the favoritism shown by legislation is not ordained by God is obvious, when the Lord commands that there be "one manner of law, as well for the

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[7]Ibid., p. 37.

[8]Ibid., p. 44.

[9]Prov. 17:15.

[10]Berggrav, op. cit., p. 192.

stranger, as for one of your own country.[11] Though this was given primarily to keep from doing injustice to the strangers in the land, it certainly follows that the more evident, the self-understood thing, is that there be no double standard of law among the natives.

That should suffice for the negative side of Laws. One could write a detailed paper on this phase alone, but we are interested now primarily in the broad principles, the guideposts. What then are some of the criteria for judging a good law? I go along with Berggrav when he says that a good law is one which is welcomed by the people.[12] Though he is speaking about international law at this particular place, it applies as well to state laws. A law that is asked for by the people in whatever channel is left open to them through which they can ask, is going to have strong public support from the outset.

If the law is desired by the people, then chances are that it will serve also for the welfare of the state. This is the only justification for the phrase "state-reason." It must be taken for granted that the goal of state-reason should be the welfare of the state. Under no circumstances can it be <u>limited</u> to that which is of direct advantage to the state. And that is exactly what happens when reason is robbed of its sovereignty and is subjected to necessity from whose blindness it is its very function to deliver us.[13]

Once the laws are on the books or entrenched in tradition, we would

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[11]Lev. 24:20.

[12]Berggrav, <u>op. cit.</u>, p. 155.

[13]<u>Ibid.</u>, p. 32.

still have no government if the observance of the laws were left entirely to the inclination of the people. Spontaneity works much more effectively and assuringly than any kind of force. Berggrav believes that the state can never do anything spontaneously or confidently, but is by its very character as an external force destructive of confidence and thus creates that confidence-crisis which is its own curse and which it deplores when it arises.[14] Since this was first written while Berggrav was confined by the Nazis, he is doubtless unduly pessimistic. But we dare never forget that society will always be obliged to use force to protect itself against the violence of the lawbreaker.[15]

Anyone who is not bereft of reason must admit that as soon as the state would refuse to use force, it would cease to be a government. Someone would seize power, whether it is the underworld or citizens banded together to protect themselves from the underworld, as was the case in the settling of the American West. The law can only be useful when the state unconditionally enforces it even if that force must include death.[16] Luther understood this clearly when he recognized that the state has only the sword with which it must compel men to that degree of goodness without which human society cannot exist.[17] Rehwinkel, who teaches psychology at Concordia Seminary and should therefore be acquainted with the behavior pattern of men, bows to this fact when he says that

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[14]Ibid., p. 35.

[15]Brunner, op. cit., p. 474.

[16]Ibid., p. 453.

[17]Edgar N. Carlson, "Luther's Conception of Government," Church History, 15, 4 (December, 1946), 257-70.

"the very existence of the State is based on this monopoly of power over life and death. Without it, it does not exist."[18] Looked at from another point of view, this is simply the extension of the right of the individual to self-defense in which he also has the power over life and death. Only from this point of view is the state justified in exercising its power over life and death. It dare never be resorted to merely on the whim of whoever exercises the power.[19] This is murder, for which the individual will have to answer--to God, if to no one else.[20]

The wise government, however, resorts to something much more powerful than force on which to base its authority. Far more effective than anything else is the ability to inspire respect.[21] Force is only a substitute to be used only on the few who place themselves deliberately on the outside of the law. It must be used on them, because they either do not understand or are not moved by authority alone. However, authority is the real means for enforcing the law. Wherever there is genuine authority no one thinks of using force.[22] This becomes especially obvious during the establishment of a new government that has not arisen from the will or consent of the people. It was doubtless the lack of real authority.

From this it appears that Brunner is right when he says that the state's real power lies in respect for the law rather than in coercion.

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[18]A. M. Rehwinkel, "The Christian and Government," Concordia Theological Monthly, XXI, 8 (May, 1950), p. 343.

[19]Rom. 13:4.

[20]Prov. 16:12.

[21]Brunner, op. cit., p. 444.

[22]Berggrav, op. cit., p. 97.

And he makes a further keen observation in the statement that it is not "unscrupulous agitation" but showing partiality to special classes and interests that destroys the sense of sacredness of the law.[23] Berggrav almost identifies this respect for the law with the natural law, written in man's heart:

> In the soul of the common man there is an unwritten law, something that is self-evident. Whether you call it tradition or conscience, it directs and controls the life of the people with an authority which is vastly more effective than the law of the state. No matter how physically strong he may be, no lawgiver can ever succeed in the long run, if he goes contrary to the popular conviction of what is right or wrong.[24]

In this he recognizes that it isn't enough to have a government. You must have someone who accepts that government and the authority which it exercises. The state has too often attempted the impossible. By acting as the antagonist of its citizens and treating them as opponents of the government from the outset, it tried to get them to respond to this suspicion with trust.[25] Germany and Russia should furnish ample proof to every thinking person that the state which is afraid to trust its people never gains its confidence, but must live in a constant state of war with its own people and with its neighbors.

To be successfully accepted by its people a government must show by its actions that it respects the individuals in the state and that it is willing to accept the responsibility involved in trusting them.[26] The

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[23]Brunner, op. cit., p. 451.

[24]Berggrav, op. cit., p. 41.

[25]Ibid., p. 102.

[26]Loc. cit.

proponents of force will object that this will lead to the inevitable downfall of the government. But how long did the Germany of Hitler last, or the France of Louis XIV? I believe that Laski came close to the only answer that can be given:

> But, it may be objected, in such a view sovereignty means no more than the ability to secure assent. I can only reply to the objection by admitting it. There is no sanction for law other than the consent of the human mind. It is sheer illusion to imagine that the authority of the State has any other safeguards than the will of its members. To argue that the State is degraded by such a reduction is no wise alters the fact that this is its existential nature. We have only to look at the realities of social existence to see clearly that the State does not enjoy any necessary pre-eminence for its demands. That must depend entirely upon the nature of the demands it makes.[27]

The protection of the welfare of the state or the totality of the individuals extends farther than within the boundaries of the state itself. We cannot put our national household in order without dealing with international problems.[28] In 1932 Brunner characterized war as "outmoded madness, which has outlived itself, and cannot be used to establish just order."[29] He further argued that its usefulness or justification cannot be argued from history since there is no analogy between now and previous history. However correct he may be in his conclusion that it cannot be used to establish just order, I don't think that is the point of view from which we are forced to view war.

Only too often the state is faced not with whether it will go to war or not, but whether it will turn the authority to govern its people over

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[27]A. Adams, "St. Augustine's Doctrine of the State in Relation to some Modern Theories of Sovereignty," Anglican Theolgical Review, VI (October, 1923), 116.

[28]Berggrav, op. cit., p. 116.

[29]Brunner, op. cit., p. 471.

to another or to rule for another state. This needs no documentation. Any daily newspaper tells the story only too graphically. Only too often we are inclined to judge the success or justification of the war by whether the slogans of ex-cigarette-advertising-men have been fulfilled. A state has only one basic objective when going to war, and that is its own continued existence. "To deny, on ethical grounds, the elementary right of the State to defend itself by war simply means to deny the existence of the State itself. If it doesn't it might just as well hand itself over to a more virile state from the outset."[30]

However, we must never forget that nations cannot use brutal methods among themselves and at the same time carry on a humane government at home.[31] War is not a device to be resorted to lightly. It can only be resorted to when a vital government is threatened by aggression from another state coveting its possessions or wishing to remove it as a hindrance to its expansion and international banditry. If a nation's existence is threatened by the lack of resources, this is no excuse to go and plunder another nation. If one country is that dependent on another for its existence, the sovereignty of the two nations must be recognized as really being one and steps should be made to federate peacefully and as quickly as possible.

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[30] Ibid., p. 469.

[31] Berggrav, op. cit., p. 114.

CHAPTER IV

THE FORM AND SCOPE OF GOVERNMENT

"The State is the order of a people; it is only real in and by means of the people. It is not an independent mystical entity, but it possesses reality only in actual human beings."[1] We must never lose sight of this fact as we wonder about the form and scope of government. A government or state must be as much as is necessary to realize the good of the people that make up the state. It can and dare be no more nor any less. What particular form any government will take must be dictated by the circumstances and the temperament of the people. This is true also about the range of the government. There can be a socialist form of government with a monarch; and there can be the most severe form or dictatorship under the guise of a democracy. Both of these conditions are portrayed by contemporary governments. Although God established the ordinance of government among men, so that men cannot exist without some form of government, He left the forms and details of government to the judgment and experience of man.[2]

All that we can say with certainty is that that form is best which most effectively realizes the purpose for which the State exists.[3] However, any form of government must be within the limits set for any legiti-

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[1]Emil Brunner, The Divine Imperative, translated by Olive Wyon (Philadelphia: The Westminster Press, c. 1947), p. 454.

[2]A. M. Rehwinkel, "The Christian and Government," Concordia Theological Monthly, XXI, 8 (May, 1950), 341.

[3]Brunner, op. cit., p. 466.

mate government. We can hardly deny on the basis of past history that any form may be either good or bad. However, no form, in itself, is wholly good or wholly bad. In itself there is no Christian or non-Christian form of the state.[4]

However, this does not condone the excesses and inefficiencies that may accompany any form of government as we know it. Any form of government that needs to preserve itself and can do so only at the cost of the suppression of the natural rights of the individual needs to be reexamined. This has been true of Fascism to such an extent that, along with Communism, it has become synonymous with loss of personal rights. On the other hand, there is much left to be desired in democracy. Chief among the deficiencies in a democracy is the lack of competent leadership, especially in the power that preserves order.[5] But these are all problems that have to be studied under any particular form of government, and adjustments have to be made to each situation.

We are too often inclined to identify a particular form of government with the excesses and abuses that have grown up with it. When this happens people become guilty of condemning a form of government, when they should be pointing out the specific abuses. This can become embarrassing, as happened to the Communists who condemned Nazism and then found themselves suddenly allied with them. The same thing has happened to the United States, now that it finds itself allied with thoroughly communistic Yugoslavia. Christians must also beware of falling into this pit, so that they are

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[4]Ibid., p. 465.

[5]Ibid., p. 467.

trapped into so-called holy wars against Communism. Difficult as it may be in the face of the terrific propaganda, we must be ready to admit that it is possible for a Christian to be even a Fascist or a Communist, "not as committed to their ultimate philosophies, which are certainly irreconcilable with Christian faith, but from sympathy with their practical political objectives."[6]

Closely allied with the form of a government, and often identified with it, is the scope, the field, the sphere of government. This is becoming increasingly acute. Today the governments of many states have a primary interest in many fields of activity. This is really nothing new, but is rather a throwback to the days of the patriarchs and the benevolent despots. It moves the state from the sphere of protecting my life to guaranteeing my living, which is something entirely different from the regularly accepted sphere of government. However, if it becomes impossible to protect the life of the people because of the greed of those controlling the living of the people, the government may have to step into this field in ever-increasing measure. That it is an ancient theory appears already in Augustine, as summarized by Burgess, who points out that by sovereignty Augustine meant "original, absolute, unlimited, universal power over the individual subject and over all associations of subjects..."[7]

A more sane view and certainly a more understanding view, is ex-

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[6]Ibid., p. 481.

[7]A. Adams, "St. Augustine's Doctrine of the State in Relation to Some Modern Theories of Sovereignty," Anglican Theological Review, VI (October, 1923), 106-18.

pressed by Rehwinkel, when he agrees that no "a priori" limits can be fixed on government activities in the life of the people. But he also points out that the greater the sphere of the activities of the state, the greater will be its power, a power that can grow only at the expense of individual freedom.[8] Brunner was also aware of this when he pointed out that the state's lust for power moves it to bring everything under its control. Nor did he concede that the state is justified in doing so. His words are well worth studying in view of the trend in the United States today.

> It is not the duty of the State itself to engage in economic activity, or to establish marriage or to carry on scientific work, or the work of education. All that it ought to do, or may do,...is by its external means which it possesses to further, support, and co-ordinate the life of these institutions, but it has no right to try to govern them and control them from within...[9]

We agree with him heartily. But it is to be noted that he stresses that the state is not to control these institutions from within. The state dare never give up its governing control over any phase of human life, either directly or by delegating it to some other institution, such as the CIO or the NAM. Just as the state has the right to make the individual adjust himself to society in many other areas, without thereby destroying his character as an individual, so also may the state control him in the matter of property or the amount of his returns. The state must never allow the property of the enterprise rights of the individual affect the basic needs of others.[10] The government must control and punish the

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[8]Rehwinkel, op.cit., p. 344.

[9]Brunner, op. cit., p. 458.

[10]Einend Berggrav, Man and State, translated by George Aus (Philadelphia: Mühlenberg Press, 1951), p. 223.

obviously evil and the shameful conduct of business (unfair competition, deceptive advertising, etc.)[11] and of labor unions.

If the government would fail to do this, it would be derelict in its duty toward its citizens and would be guilty of favoring one class over another by not protecting the welfare of all against the predatory drives of individuals. For it is primarily the duty of the state, in its capacity of preserving creation, to see to it that human rights have ample opportunity to develop.[12] If the special interests become too difficult to get them to bow to the welfare of the nation as a whole, then the government may be forced to enter the field directly, at least for a time. As soon as possible, however, the government should turn private enterprise back where it belongs. The state should never take over because it wants to but because it has to.[13] This is in perfect agreement with the principle of the early American colonies: "To the individual what belongs to him and to the community what belongs to it." Each was to retain his freedom as long as it doesn't violate the interests of the community.[14]

All this is in harmony with the truth that the "state is God's servant and workman to punish the evil and protect the good." The secular regime, according to Luther includes all the offices and stations which are a part of this earthly life, that is, everything that is implied in

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[11] Ibid., p. 229.

[12] Ibid., p. 191.

[13] Ibid.

[14] Ibid., p. 117-18.

God's grant of "dominion" in Gen. 1:28.[15] In these things that are under us civil government is operative. But Luther insisted strongly that government does not reach into those things which have not been made subject to us, e.g. the conscience...but only to the outward physical things.[16] Many have from this point taken an incomprehensible jump and have maintained that nothing affecting the spiritual realm is the concern of the state. It is true that the spiritual welfare of the subjects is no concern of the state. But the state must prevent one citizen from violently hindering another in determining and promoting this welfare to the best of its ability.[17] In addition the state ought scrupulously refrain from interpolating its own semi-compulsory or wholly compulsory activities in such a manner that they interfere with the free development of the individual in the path chosen by him. This was developed to a high art by the Nazis and the Communists, but it has made alarming inroads in the United States, especially in the public school system. For in its eagerness to separate Church and State, the United States has almost deprived the majority of its citizens from gaining a religious education.

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[15]Edgar M. Carlson, "Luther's Conception of Government," Church History, XV, 4 (December, 1946), 257-70.

[16]Harold Diem, Luthers Lehre von den Zwei Reichen (München: Chr. Kaiser Verlag, 1938), p. 70.

[17]Immanuel Kant, Writings in Philosophy, translated and edited by Lewis White Beck (Chicago: The University of Chicago Press, 1950), p. 290.

CHAPTER V

THE PERSONS IN THE GOVERNMENT

One of the most objectionable features of many theories of government is that they are tainted from the beginning by a Platonic view of government, which makes of it an Idea, a super-institution divorced from human beings. This always tends to make of the government or state an irresponsible entity, ruling only for the vague "good of the state." But the state is composed of people and is only real in and by means of the people. It is not an independent mystical entity, but is real only in so far as there are people in it.[1] This seems to be self-evident, but only too often people view the state as something supra-human. This is evident in the demands that the people make when they say the "state does, or should do, this or that," forgetting that they are the state.

In the eyes of God all individuals are equal. We cannot escape the fact, however, that there is a difference between a person functioning merely as an individual and one functioning as an official. One meets this objective truth everywhere in society. A father acting as such is not John Doe, but father. Even a chairman of a society, functioning in his capacity as a chairman, is more than a private individual. This is an inescapable fact. "There is a respect due the office which does not belong to us as private individuals, a reverence which only great subjec-

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[1]Emil Brunner, The Divine Imperative, translated by Olive Wyon (Philadelphia: The Westminster Press, c.1947), p. 454.

tive deficiencies can forfeit."[2] To deny this principle is to deny the ability of a government to function. Christ pointed out that this is a power coming from above, when He pointed out to Pilate that as an individual he had no power over Christ, but having received power from above, he did.

Luther was warm in this respect when he separated between the persons and the offices, pointing out that the systems of society and government are unqualified goods, even when those who occupy the positions of authority are corrupt. He claimed for government a "sanctitas generalis" apart from the good or evil activity of men.[3] Much comment to the contrary, Luther did not make of the rulers veritable gods, responsible to no-one but themselves. He called them the "most harmful people on earth, if they depart from the virtues of their office." In that case they could more properly be called devils. Though Luther did not follow his observation to any logical, practical conclusion, he held the emperor who does not subject himself to God to be as rebellious as the prince who does not subject himself to the emperor.[4] Thus when Herod beheaded John the Baptist, he was as guilty of murder as is the gangster who takes his rival for a ride. A ruler who is unrighteous in his judgments is not entitled to be established.[5] The Lord pointed out through Daniel that

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[2]Eivend Berggrav, Man and State, translated by George Aus (Philadelphia: Mühlenberg Press, 1951), p. 202.

[3]Edgar M. Carlson, "Luther's Conception of Government," Church History, XV, 4 (December, 1946), 262.

[4]Ibid., p. 265.

[5]Prov. 25:5.

He would not be with the ruler who did not know that the most High rules in the Kingdom of men.[6] Though the question still remains to be answered as to how control is to be exercised over the rulers in all cases, there is no question that they themselves must be held accountable for their deeds. Since this has been more or less overlooked throughout all ages and all governments, not much has been done to determine to what extent and in what manner this control is to be exercised. Some feeble and questioning steps will be taken in this direction in a later chapter. We shall have taken a significant and long step in the right direction if we recognize without qualifications that a "necessity of State" does not justify a type of amoral politics.[7] "Christians" dare by no means justify on Christian principles those actions which arise from the instinct of "mass selfishness, from the purely natural motives of self-preservation and self-assertion."[8]

Luther tried to find the answer to this problem in the education of the rulers.[9] Though it may have been a step in the right direction, it left the final authority still practically in the hands of the ruling class. Since there is probably no other place to put the responsibility it is essential then to find those to rule who are qualified to distinguish and respect the difference between right and wrong. It was no doubt referring to this that the writer of Proverbs said that it was not right

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[6]Daniel 4:25 ff.

[7]Brunner, op. cit., p. 480.

[8]Ibid.

[9]Harold Diem, Luthers Lehre von den zwei Reichen (München: Chr. Kaiser Verlag, 1938), pp. 72 ff.

for a servant to have rule over princes. It is a terrible responsibility that is imposed on a ruler. He that undertakes the task must find himself constantly between the frying pan and the fire. He cannot rule for himself, and he dare not let himself come into jeopardy that would endanger the welfare of the state. He dare not remove those who hold him to his accountability to God, nor dare he permit undermining of his rightful authority.

It is not enough that there is someone who exercises authority. There also has to be someone who accepts the authority that is exercised. Rather than building on force, authority builds on the fact that there is mutual respect between him who exercises authority and the one who, therefore, also recognizes that it is for the mutual benefit for everyone concerned that he submit to that authority.[10] Though it may be argued that the Christian is actually free from the powers spoken of by Paul, Paul stands firm in his statement that every soul is subject to the powers that be. It cannot be denied that God has placed the Christian in this world and subjected him to the ruling powers.[11] Those who criticize Luther's stand on government do not place enough significance on the official statement put out by Melanchton with Luther's blessing in the Augsburg Confession. Here it is pointed out that the Gospel does not destroy the State...but requires that it be observed as the ordinance of God. "Therefore, Christians are necessarily bound to obey their own magistrates and laws, save only when commanded to sin; for then they ought to obey God rather than

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[10] Berggrav, op. cit., p. 102.

[11] Anders Nygren, Commentary on Romans, translated by Carl C. Rasmussen (Philadelphia: Mühlenberg Press, 1949), p. 427.

man.[12]

Later Lutheran tradition often tended to overlook the last clause and, like Thiersch, sponsored the horrible doctrine that even a tyrant must be regarded as a ruler "once he has come into possession of power." This makes of Christianity a guaranty of no matter what kind of power, which eliminates it, as a force of law and justice. It is impossible for Protestantism to maintain such a position. It is also in direct conflict with the Augsburg Confession's thrice repeated de iure.[13] Besides, since a person only willingly subordinates himself to that person or authority which is most in harmony with the best in him,[14] how can a Christian indicate by unquestioning obedience to an evil ruler and all his evil laws that he is in harmony with it all?

Augustine found no objections to obeying the laws of the earthly city which were necessary for the maintenance of this mortal life. He regards obedience to the "common agreement among men" as potentially aiding toward the attainment of the peace of the heavenly city.[15] It should be a holy joy to the Christian to strive to do right and to brand the wrong. Actually to subject himself thus to law is not a sign of slavery but of freedom, not of shame but of honor. A Christian who regards government thus in its true light makes the best citizen of a country. Far from standing in hostility to earthly authorities, he is the only one who is

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[12] Augsburg Confession, Article XVI, p. 51.

[13] Berggrav, op. cit., p. 278.

[14] Ibid., p. 104.

[15] A. Adams, "St. Augustine's Doctrine of the State in Relation to Some Modern Theories of Sovereignty," Anglican Theological Review, VI (October, 1923), 109-10.

able to give rulers the esteem and honor due them.[16] Just how full this obedience is Paul points out in his letter to the Romans, where he calls not merely for outward bowing to the authorities but for an inner subjection.[17] Peter also calls for full obedience to "every ordinance of man" and warns against using the cloak of Christian freedom for maliciousness, thus bringing shame on the Gospel.[18] He also warns Christians in the same letter not to be guilty of breaking the laws of the state and suffering as common criminals.[19] Paul sets such great importance upon obedience that he makes it a responsibility of the bishops to point out the necessity of obedience to their people.[20] There is certainly no basis in Scripture to claim exemption from civil authorities because of "Freedom from the law."

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[16]Nygren, op. cit., pp. 430-1.

[17]Rom. 13:1 ff.

[18]1 Peter 2:13,14.

[19]1 Peter 4:15.

[20]Titus 3:1.

CHAPTER VI

LIMITATIONS ON GOVERNMENT

In some circles even in this day there are men who view the very expression "limitations on government" as blasphemy. Though they sincerely refer to Romans 13 and 1 Peter 2 as corroboration or rather as source for their views, they have actually imbibed the philosophy of Machiavelli. Perhaps unwillingly and sadly, yet they have become like the Pharisees who bound themselves to the letter of the law rather than to the spirit. Though they recognize that the state ought to be bound by the law of God, they see no way in which the citizens can without mortal sin place any restrictions on the government to which the government does not willingly consent and which they may break with impunity whenever the government thinks that it is for the "good of the state." With their help, every modern state right down to our day has held Machiavelli's claim that its citizens should be bound by the moral code from which the state should be exempted.[1] Machiavelli even went so far as to claim that though it is not necessary for the state to be immoral, it is beyond morality, amoral, beyond good and evil. Therefore it should obey the moral law if it is expedient, but only if it is expedient.[2]

For Spinoza the state had only one law, <u>security</u>. Its <u>only</u> sin would be to do or permit something to occur which would lead to the weakening

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[1]Eivend Berggrav, <u>Man and State</u>, translated by George Aus (Philadelphia: Mühlenberg Press, 1951), p. 7.

[2]<u>Ibid</u>., p. 6.

or downfall of the state.[3] If we concur in the above philosophies, we open the gates for the state to turn on the citizens and devour them. In fact, by its self-exaltation over the law the state undermines its very existence. When it abandons the moral law, it lands in the clutches of the law of the jungle: every man for himself. If it does not become and remain human, the state inevitably becomes demonic.[4] As proof of this we have Robespierre, followed later by Quisling and Hitler and Stalin. Robespierre invented the punishable attitude, with no evidence necessary to establish its presence.[5] To what lengths a state which sets itself apart from the law will go can be seen in the case of Sorenskriver Bocke. When on the basis of an old interpretation of the law, the people's tribunal acquitted him, Quisling's Minister of Justice called the judges in and scolded and threatened them. "They had not understood their function according to the laws of the new age."[6] It may be all right to say "my country right or wrong, but my country," if thereby a Christian means that in spite of its defects and shortcomings he intends to function as a salt for it. But he can not say it in the sense of following without protest the government, no matter what id does and be true to the Spirit of Christ. A "necessity of State" does not justify a type of amoral politics.[7]

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[3] Ibid., p. 16.

[4] Ibid., p. 41.

[5] Ibid., p. 24.

[6] Ibid., p. 26.

[7] Emil Brunner, The Divine Imperative, translated by Olive Wyon (Philadelphia: The Westminster Press, c.1947), p. 480.

How then are we to limit the state? We cannot make it entirely dependent upon the consent of the people, for this is to make the government weak and unable to enforce its authority.[8] Besides, consent of the people is no guarantee of just government. Luther was more realistic in his approach to the problem when he urged Christian education for the rulers than are those who depend on the "will and consent of the people," who are more likely to err than is a monarch, well-educated along Christian principles and who feels himself responsible to God for his charge, whereas there is no responsibility in pure "democracy." This was Luther's way of keeping the state from oppressing the citizens. Berggrav seems more practical when he says that the state must have another authority above it, and that it is strengthened rather than weakened when it does not have a monopoly on sovereignty.[9] I say seems, for I am not certain that Luther has always been interpreted correctly, even by those who claim to be following in his footsteps but fail to take into account his wider meaning. For Luther the law is always something much wider and more fundamental than mere state legislation. "It is woven into the fabric of human life and no one can be quite ignorant of it nor can it be ignored with impunity." For Luther law is the will of God.[10] This was also in the mind of Paul. The law, identified with the will of God, and not the state is supreme. Consequently, when he writes "Power" we ought sometimes

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[8] Ibid., p. 467.

[9] Berggrav, op. cit., p. 76.

[10] Philip S. Watson, Let God be God! (Philadelphia: Mühlenberg Press, 1950), p. 155.

to read "Law."[11]

It is only by ignoring such clauses as "he is the minister to thee for good," and "an avenger to execute wrath upon him that doeth evil" that anyone can claim unquestioning support for any kind of government.[12] In order to be governing by the will of God, or lawfully, a government must also govern in harmony with these laws of ministering for good and punishing evil. A government must and can be held within these limitations. To the New England clergy before the time of the revolution, a government which did not have the good of the people at heart did not have the sanction of God.[13] Before ever the Israelites chose a king, the Lord placed restrictions on that king.[14] And when the kings of Judah took office they did so only after making an agreement with the people whom they were to govern.[15]

The natural law is not foreign to Christians, for Paul himself stated that the Lord had written it in the hearts of men.[16] Nor does the Gospel, according to Luther, cancel "natural law," but establishes it as an institution and creation of God.[17] It was because of the fear of acknowledging

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[11]Berggrav, op. cit., p. 237.

[12]Rom. 13:1 ff.

[13]Alice M. Baldwin, The New England Clergy and the American Revolution (Durham, N.C.: Duke University Press, 1928), p. 23.

[14]Deut. 17:14.

[15]Berggrav, op. cit., p. 72.

[16]Rom. 2:15.

[17]Harold Diem, Luthers Lehre von den zwei Reichen (München: Chr. Kaiser Verlag, 1938), p. 65.

the existence of unwritten laws, that the very definers of law contributed to the elimination of every limitation of the power of the state. The Nazi practice of the law was in its principles entirely modern. It made a vicious circle of Western Jurisprudence: "sovereignty resides in the people, the state directs the people, hence the state is sovereign."[18]

Many who agree that the state should be controlled by the moral law, still balk at using any means to see that it does. These argue, and no doubt rightly, that as soon as we put the state under authority, provided that we can do it, we goad the state on in its lust for power and fall back into a repetition of the struggle of the Middle Ages.[19] But this is no excuse to shirk our responsibility to society, and we have a responsibility to curb the state somehow, because the state, acting contrary to morality, resulted in the creation of a sovereign power "which is independent of both God and man, of both moral laws and conscience.[20]

If we deny that anyone can legitimately restrict the predatory tendencies of a nation under whose power you happen to be, then Petain is a martyr and DeGaulle is a scoundrel. The real hero of American boys should then not be George Washington but Benedict Arnold, who tried to serve "the powers that be." The idea, however, is to control government, so that it is really government, not to replace it with anarchy. That is a difficult and serious business.

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[18] Berggrav, op. cit., p. 74.

[19] Ibid., p. 111.

[20] Ibid., p. 12.

CHAPTER VII

KEEPING THE GOVERNMENT WITHIN ITS LIMITS

What are we going to do when the government has turned on the people and has become a menace instead of a government for the good of the people? First of all, we must never lose sight of the fact that government is a power created by God to preserve His Church and His Creation. This must never be opposed or frustrated under any circumstances either by the state or by the citizens. When the citizens attempt to frustrate the state in its function, it is the duty of the state to resort to the sword.[1]

> If a Christian, trusting in freedom from the powers of this world, thinks that he is absolved from obedience to the authorities that govern, he resists not only the authorities, but that which God has ordained. He thereby calls down upon himself, not only punishment by the authorities, but also the judgment of God. If God has ordained that the Christian is to live his life in <u>this</u> world, in <u>this</u> aeon, the Christian must not pretend that he already lives in the glorified state of the new aeon. If God placed him in this existence with its orders, it is not the intention that he shall set himself above them and arbitrarily claim a state of glory in advance.[2]

This makes it amply clear that the Christian, as is everyone, is subject to the powers that be. However, an unqualified justification of the State, such as is achieved by the idealistic conception of the State, and which demands unquestioning obedience to the state is not to

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[1]Rom. 13:4.

[2]Anders Nygren, <u>Commentary on Romans</u>, translated by Carl C. Rasmussen (Philadelphia: Mühlenberg Press, 1949), pp. 428-429.

be tolerated from the point of view of the Christian faith.[3] When the Nazis commanded the extermination of innocent masses it was the philosophy of responsibility to the state alone that made it possible for police to pull the trigger on sucking babies. When questioned how they could do such bestial things as were perpetrated in the concentration camps and other things, they inevitably answer that it was not they who did them but the state, the government. In such a philosophy the individual conscience is entirely destroyed and the state, which is answerable to no-one, becomes a sort of collective conscience--in reality merely an excuse to avoid individual responsibility to God and man. No Christian can believe such a horrible doctrine. Those who have supported it, did so in ignorance of the diabolic forces that they were permitting to run rampant.

The framers of the Augsburg Confession certainly did not subscribe to this later perversion. Such evasion of individual responsibility was prevented by the statement: "Therefore, Christians are necessarily bound to obey their own magistrates and laws, save only when commanded to sin; for then they ought to obey God rather than men."[4]

Now were they proposing something new to God's children. The midwives in Egypt refused to obey the command of Pharaoh to kill the male children of the Israelites and Moses ascribes their disobedience to the government to the fact that they "feared the Lord."[5] And that their disobedience, far from calling down the damnation of the Lord, actually pleased Him, is evident from the fact that he "dealt well with them" and

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[3]Emil Brunner, The Divine Imperative, translated by Olive Wyon (Philadelphia: The Westminster Press, c.1947), p. 46.

[4]Augsburg Confession, Article XVI, p. 51.

[5]Ex. 1:15 ff.

that "He built them houses."[6] The writer to the Hebrews calls their act an act of faith and praises them because they were "not afraid of the king's commandment."[7] The same writer points out that the Exodus was something that aroused the wrath of the king, but was carried out by Moses, nevertheless as an act of faith.[8]

Daniel is remembered today mostly for the fact that he dared disobey the king's command to worship the golden image.[9] Would his stature have been any the less had he defied the king and refused to machine-gun a group of helpless "undesirables?" The apostles were not asked by the rulers of the people and elders of Israel to bow down and worship any other God. All they asked was that the disciples stop preaching in the name of Jesus, to remain quiet and not cause a disturbance. Yet certain that they were called of God, Peter and John scorned this easy way out of their responsibility and even called upon their judges to judge whether it would be right to listen to human commands rather than to God.[10] Not long after, Peter and the other apostles went through the same experience, defiantly telling the rulers, "We ought to obey God rather than men."[11] Who is there that will say that a man may <u>preach</u> the Gospel in defiance of contrary commands from the authorities but that he dare not <u>practice</u> it in defiance

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[6]Ex. 1:20, 21.

[7]Heb. 11:23.

[8]Heb. 11:27.

[9]Dan. 3:18 ff.

[10]Acts 4:19.

[11]Acts 5:28..

of them? Under all circumstances the individual remains subject to the laws of God. He never can excuse himself for a beastly act with the excuse that it is commanded by the state, whether he be governor or governed. That people are coming to the acceptance of this fact is evident in the trials of the war criminals of the last war. Its main weakness, however, was that it tried only the vanquished and not the victors.

This was not something entirely new, though approached from a different angle. Perhaps the chief principle of the American constitution is the principle that no-one has to obey an unconstitutional act. This doctrine was taught in its fullness and repeatedly before 1763. "No single idea was more fully stressed, through the first sixty years of the 18th Century, than that governments must obey laws and that he who resisted one in authority who was violating that law was protector...not rebel."[12]

Simple disobedience is not always enough. Often it must be graduated into opposition. The prophets of the Bible often went over the heads of the kings and made their appeals directly to Jehovah and his people. J. A. Spender names this the dawn of what we now call progress and freedom.[13] It was certainly more than an act of disobedience when Rahab received and his the spies from the Israelites. Though under ordinary circumstances this would have been an act of treason, yet following what she believed

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[12]Alice M.Baldwin, The New England Clergy and the American Revolution (Durham, N.C.: Duke University Press, 1928), pp. 168-9.

[13]Eivend Berggrav, Man and State, translated by George Aus (Philadelphia: Mühlenberg Press, 1951), p. 75.

to be the will of God, it is recorded as an act of faith for which she received from God the gift of life.[14] It was also an overt act on the part of Obadiah when he hid and fed a hundred prophets of the Lord, when Jezebel was cutting them off.[15] The continued preaching of the Gospel in direct opposition to commands of the rulers was also more than passive disobedience.

Perhaps it is because Christians have stopped opposing the lawless acts of the state that there is no longer any persecution. No state will oppose any organization that is in appraent harmony with any act it may do. It is not a virtue when Christians remain silent when the state tramples on moral scruples and is full of godless acts. Though it is not true that the only alternative is the Sermon on the Mount or complete autonomy, the state is, nevertheless, under the demands of the Will of God, and will not go unpunished if it breaks His law.[16] It is not bearing the brother's burdens if the Christians fail to oppose evil acts of the state merely because they are not directed against the Church. The church in Germany did that, and when it did awaken, it was too late. Not wanting to become involved in suffering and strife for the sake of "secular matters," they found that there really are no secular matters for a Christian conscience.[17] In all opposition to the government the Christian must be moved by love for his fellowman and not by hatred to or jealousy of the rulers.

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[14] Heb. 12:31.

[15] 1 Kings 18:4.

[16] Brunner, op. cit., pp. 464-5.

[17] Berggrav, op. cit., p. 283.

When a man is moved to oppose the state out of selfish motives and not solely because of an aroused conscience, he is opposing the powers of God and sins.

The danger of disobeying or even openly opposing the government is great. But the danger is still greater when the opposition moves from the realm of protest and presentation of grievances to the attempt to replace the predatory state by a real government for the good of the people. This comes about when conscience is so violated and aroused that people forget self-preservation and rebellion becomes inevitable.[18] Repugnant as the thought of rebellion is to most of us, to deny the justification of it under any and all circumstances is to deny the people's ultimate means of self-defense. In the final analysis, it is only uprising and revolt, in their power of threat that are a latent radical guaranty against the state's becoming arbitrary.[19]

When the time comes that a Christian is faced with the question of forcibly opposing a government it must be a time of almost horribly grave decision. He cannot hide behind the universal rule of being subject to the powers that be, but stands unbared before his God, responsible for the welfare of his brothers. The Germans in the thirties failed to take a stand until too late, and the punishment was national disaster. He dare not even ask himself whether the government is in a position to harm him, which it most likely is, but his criterion must always be a burning challenge to withstand all unrighteousness. "When God's orders are

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[18] Ibid., p. 274.

[19] Ibid., p. 248.

trodden under foot and the right of one's fellowman to live is threatened at the very outset, there the Christian must be willing to go the way of sacrifice, even if it involves revolt against illegal authority."[20] Though revolt can never be entered upon lightly or carelessly, the same is true of avoiding revolt.

When the time comes that revolt is called for, those who listen to the voice of God as it is revealed throughout Scripture and have had their ears of conscience opened by it, these will hear the voice of revolt. Then it becomes a divine call, which a man who knows the facts is called upon to obey.

> Christian conscience has its strength in obedience, but this may also be the obedience to revolt. When the dignity of man maintained by Christ is trampled underfoot, when truth and righteousness are strangled, when force goes about unmasked or dresses itself up in lies, then God-conscience is at work far beyond the circle of those who are its most proximate organs.[21]

Here would apply also Kierkegaard's proposition that the moral law can be set aside on the basis of a personal, existential encounter with God.[22] When a man is so moved by circumstances that he will give up everything he has including his life to lead a revolt, because he sees that the state is debasing his brothers, can we deny a priori that it is being moved by God? How much more did Ehud have to move him to kill the oppressor of his fellowmen? He was not called an assassin by the Biblical author but a deliverer sent or raised up by God.[23]

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[20]Ibid., p. 283.

[21]Ibid., p. 267.

[22]Jaroslav Pelikan, From Luther to Kierkegaard (St. Louis: Concordia Publishing House, 1950), p. 115-16.

[23]Judges 3:15 ff.

Not many men are faced with the decision to begin a revolt. This is done by the leaders appointed by God and moved to this action by whatever means He may employ. Others then have to make the decision whether to remain with the old order or to join with new. But even the Christian cannot avoid the necessity of choosing between them. When the old order fails to provide order, a new order must come into being which will establish real and honest order to replace the lack of order under the old regime. It is, furthermore, only unavoidable necessity which will protect this action from being actual rebellion against God.[24] This also presupposes the inherent ability and intention of actually establishing real order. Though this actually belongs under the chapter dealing with the Church and State, yet a word of warning must be inserted here. Though it might be the duty of Christians to take part in a revolt as citizens of the state, this cannot be done as members of the Church.[25] The Church as Church is involved only in the preaching of the Gospel, not in the immediate business of setting up and knocking down governments.

Though Brunner indicated that only in cases of extreme necessity is revolt justified, Berggrav sees a danger even in that criterion. The latter has summed up the entire business very well in the following sentences:

> It cannot be denied that revolt is Christian. Nor is it enough to say that one must turn only in cases of necessity to revolt with arms or without. When men are mutiny-minded they can insist that a case of necessity exists every time something opposes their own wishes. That is why it is a good thing that revolt or mutiny

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[24]Brunner, op. cit., p. 473.

[25]Berggrav, op. cit., p. 280.

always involves great outward risk. For one who is subject to an authoritative conscience, however, there is an even greater risk--the judgment of God.[26]

Though we have found much fault with the philosophy of the German nation which helped Hitler to power and sustained him in spite of his horrible excesses, a recent decision by a German court is probably going to be of much greater significance than the noise made about it now--almost unnoticed. Major Remer, who frustrated the revolt after the bomb plot on Hitler's life on July 20, 1944, in a public speech called them conspirators and traitors to their country. This was on May 3, 1951. In March of 1952 Remer was in a Brunswick Court, accused of slandering the July 20 conspirators. Witnesses against him quoted Hitler himself in Mein Kampf: "If through exercise of governmental power, a nation is led toward ruin, rebellion is not only a right but a duty." Prosecutor Bauer in summation of the case against Remer said: "The resistance fighters wanted only to save the country. The Third Reich was an illegal state, and every citizen had the right of self-defense against it. Hitler was the greatest of war criminals. There can be no treason against a war criminal." After three days of deliberation the tribunal of three judges and two laymen brought in the verdict: "The Nazi state was not a state of justice but of injustice. The people of the July 20 plot were moved by patriotic instincts." Ernst Remer was sentenced to three months' imprisonment for slander.[27]

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[26] Ibid., p. 282.

[27] Time (March 24, 1952), p. 35.

CHAPTER VIII

CHRISTIAN PARTICIPATION IN GOVERNMENT

Though we have had to admit that in cases of extreme necessity and for conscience sake a Christian may be moved justly to revolt or participate in revolt against the state, it is not his highest function by any means. If things have come to such a sorry state of affairs that revolt seems to be necessary, it might be an indication that the salt has lost its savor. Instead of waiting until a state is so bad that it has to be replaced, the Christian along with other citizens should be doing all in his power to influence the state for good, not only by his obedience to the law, but by undertaking any other service to the state for which he has been gifted by God. Daniel and his three friends gave good and valuable counsel to the conqueror of their country.[1] When, in turn, Persia conquered Babylonia and Darius set a hundred and twenty princes over the kingdom, Daniel was "preferred above the presidents and princes, because an excellent spirit was in him."[2] He was no quisling, but with bold advice, often at great personal danger, he helped make a better government.

The principle of Christianity in practice is love toward the brother, to do good to everyone as much as in us lieth. In politics he has a

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[1]Daniel 1:20.

[2]Daniel 6:1, 2.

chance to show whether he really is in earnest about active love.[3] Not that a Christian in government is to rule by means of the Sermon on the Mount. This would never do. He rules by law, the law of the state. His Christianity comes in in the exercise of strict justice and impartiality, honesty and integrity, and the intelligent exercise of mercy when it is not inimical to the general welfare. This is in harmony with the principle of the Augsburg Confession which says that "it is right for Christians to bear civil office, to sit as judges, to judge matters by the Imperial and other existing laws, to award just punishments, to engage in just wars, to serve as soldiers,..."[4] This also includes that when he sees laws or practices that are manifestly unjust, he will exert all his influence (not merely a token protest) to remove the spot. It is just this that makes the service of the Christian valuable to the state. By these continuing, peaceful, progressive "revolutions," the necessity of a rebellion never arises. Government, as intended by God is guaranteed, and no-one, according to Luther, is more qualified than the Christian to do the works of God.[5]

The above is also in harmony with the advice which John the Baptist gave to the publicans and soldiers that came to him to be baptized. He told neither to give up their places. To the tax collectors he said: "Exact no more than that which is appointed you," to the soldiers he

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[3]Emil Brunner, The Divine Imperative, translated by Olive Wyon (Philadelphia: The Westminster Press, c.1947), p. 480.

[4]Augsburg Confession, Article XVI, p. 51.

[5]Harold Diem, Luthers Lehre von den zwei Reichen, (München: Chr. Kaiser Verlag, 1938), p. 68.

said: "Do violence to no man, neither accuse any falsely; and be content with your wages."[6] These instructions clearly show that the holding of offices in the state, including that of soldier, is not wrong per se. He who stops here and excuses the participation of Christians also in the unlawful acts of the state is without excuse. This is equally true whether it is paricipation in "customary bribes, etc." or participation in legalized plunder and murder. The Christian official must protest, even though he thereby places his life in jeopardy. He who denies this, denies that it is the privilege of the Christian to witness to the truth at all times.

Because of its peculiar character the occupation of the soldier deserves more attention in this respect. He who denies the right of the state to wage just war, really denies the right of the state to exist. Any nation known to be opposed to defending itself with arms, if necessary, merely invites another nation to take over. This is not even open to question in the present aeon. Since wars are fought by soldiers, people, it is necessary for the state to raise the army from among the people; and it is the duty of the people to furnish that army. This must not be taken to mean that every citizen who refuses to serve in the army is by that very fact resisting the ordinance of God. This is not an absolute demand, nor can it be. This fact was recognized and provided for by Moses at the command of God, when he permitted not only the newly-weds and those beginning new ventures to return home, but provided also

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[6]Luke 3:12-14.

that the fearful and fainthearted return home.[7] The latter would include also those who could not convince their conscience that they were being called into a just war. They cannot shrug off the flaunting of this conviction by putting all the blame on the government. If a man's conscience forbids his entering the army to participate in what he considers an unjust war, he must for the wake of his conscience refuse to participate and suffer whatever consequences his government inflicts on him rather than serve against his conscience.[8] This does not exempt the state from making intelligent provision for using him in some capacity in which his conscience will not be abused.

One more thing needs to be said. Much is made of unquestioning obedience to superiors in the army. It is necessary for military efficiency to have much of it. But we must never lose sight of the fact that a soldier is still an individual who is responsible for his every act to God. Therefore, if his conscience tells him that an order he has received is wrong morally, he must disobey. Had this been carried out by the German Christians there would have been no Dachau, no ghetto massacres. No man, soldier or not, can remain a Christian, if he can without qualms of conscience, just because he is ordered to do so by a superior officer, bludgeon children and helpless people to death, or participate in burning the inhabitants of a town in the town church.[9]

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[7]Deut. 20:5-8.

[8]Brunner, op. cit., p. 473.

[9]Since I could find nothing on this and still believing it should be said in this paper, I enter it as my conviction. My authority for the statements is that nowhere does the Lord exempt the individual from responsibility and transfer it to a group.

While a Christian serving in government must always be a Christian, he cannot serve or govern as a Christian. Both of these truths were stated by Luther.[10] If he is the major of a city, he is to fulfill that office as the mayor and must not use the office to promote the teaching of Christianity. That is the function of the Gospel and the Gospel ministry. When, as major, he sees to it that the Christian citizens have the guarantee of justice as has everyone else, he has done his Christian duty. This is only in keeping with the entire teaching of the two kingdoms. Though they mutually aid each other, neither must ever usurp the domain of the other. While the body of Christians could through their minister reprimand a major guilty of unchristian practices, could also excommunicate him, yet they could neither demand or expect him to pass legislation favoring the church at the expense of the rest of the community. He would be acting in an unchristian manner if he were to do so.

A logical extension of this principle must be taken in the formation of political parties. Under no circumstances ought any political party have the word "Christian" inscribed on its banner. "Politics, state action, is in every instance so heavily weighted with the sinful independence of the fallen world, that we can only compromise the name of Christ by taking it as the sign of this or that tendency or group--even if in other ways it may have much to say for itself."[11] This same principle must be borne in mind when the Church must speak out against evils

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[10]Diem, op. cit., p. 28.

[11]Brunner, op. cit., p. 481.

in any government or nation. They must make certain that it is Christians preaching against evil and not "democratic Christians" aligned against Communism. It may be the duty of Christians to fight Communism because of the threat it is to them as citizens and persons, but it can never be the right thing for a Church to do, as a Church.

CHAPTER IX

THE CHURCH AND THE STATE

Since it is extremely difficult to separate the Christian from the Church of Christ, there have been traces of this problem already in the last chapter. It is not in the scope of this paper to answer this question, even if an answer is possible. Ancient times knew nothing about separation and though nothing about separation of Church and State. The states of antiquity all had a religious basis. The relation of primitive Christianity to the state ushered in a new relation. The early Christians recognized the state as ordained by God though "without God" and never conceded to it the right to dictate to them in religious matters.[1] Though the early Christians went out of their way to obey the laws of the states in which they found themselves,[2] they for the first time in history were functioning religiously without the government. Augustine conceived of the Church as a distinct entity from the state, and not subordinate to it. He stressed this so strongly that he has been accused of setting up a doctrine of Church-sovereignty over the state.[3]

Even in such countries where the church is supported by the state,

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[1]Emil Brunner, The Divine Imperative, translated by Olive Wyon (Philadelphia: The Westminster Press, c.1947), p. 440.

[2]Rom. 13.

[3]A. Adams, "St. Augustine's Doctrine of the State in Relation to Some Modern Theories of Sovereignty," Anglican Theological Review, VI (October, 1923), 115.

it is not actually the mixing of Church and State but the captivity of the church, for the state rejects the idea that the Holy has any right in its realm at all.[4] Nor have the countries that have achieved an organic separation of church and state fared any better. Where so-called "freedom of religion" has been incorporated into the governing of a state it has come to mean for the people, freedom to have it; for the state freedom from it.[5] In this way when Christians have protested against unchristian actions the backers of the particular action have hurried to shout "mixing church and state." In coming to grips with this question, the Christian has to beware of two errors: 1. That the Christian faith can exercise no influence on government, 2. that it can overcome the autonomy of the political sphere by the powers of faith.

Instead of exempting religious leaders from interest in and responsibility for political problems, Luther seems to say that the misuse of political power is very much the concern of the preacher, more so than of any other citizen. He calls the ministry "the office to which God has committed that duty of rebuking the rulers."[6]

In a previous chapter we pointed out that a Christian may hold political office, but he dare not rule as a Christian. The reverse side of this is also just as true. A ruler may function as a Christian and take a Christian part in the affairs of the Church. However, when he does so,

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[4]Eivend Berggrav, Man and State, translated by George Aus (Philadelphia: Mühlenberg Press, 1951), p. 51.

[5]Brunner, op. cit., p. 479.

[6]Edgar M. Carlson, "Luther's Conception of Government," Church History, XV (December, 1946), 266.

he is an individual and not a ruler. He dare not exert any of his political influence in the affairs of the Church.[7] The former Luther saw clearly, but in respect to the latter he suffered from an acute astigmatism.

Though many other phases of the relation of the Christian to his government need much more study on the part of Christians than they have been given, the question of the relation of Church needs it more than perhaps any other. Much needs to be said about ministers getting up in their pulpits and calling on Christians to go and kill their Christian brothers and fathers in another country. Much care has to be taken that the churches are not converted into granaries by the government. A big step in this direction was taken when the churches permitted the government to take over the education of the child, without guaranteeing a reasonable time to the churches for the education in religion. The entire question of government support for chaplains in the army is one that has been bumbled into, but not much thoughtful and honest study has been done on it. The field is wide open for the study of Christian Principles in Government.

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[7]James 2:1.

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