

JOHN CALVIN, LAWYER.

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THE fact that a large part of Christendom is this year celebrating the four-hundredth anniversary of John Calvin's birth is *prima facie* proof that the immortal Genevan's career had in it some of the true elements of enduring greatness. No name to-day, ancient or modern, can start more arguments or kindle fiercer controversies than his. None elicits more extravagant eulogies on the one hand or more cruel calumnies on the other. Calvinism is Calvin writ large, and Calvinism is to one camp of thought the red flag that irritates and angers, while to another it is little less than the crystallized essence of imperishable truth. It is easy to believe that an intelligent acquaintance with the man and his teachings is no more required for the task of execrating than of idealizing, and it is safe to say concerning those that caricature and curse as well as those that exalt and praise that a genuine first-hand knowledge of the personality of the great reformer, of the actual nature of his many-sided work, of the real principles which he taught or of his posthumous influence upon history is by no means in every case an indispensable requisite for their work.

In most men's minds Calvin figures as the great thinker of the sixteenth century, who did more than any other to organize the intellectual elements and to co-ordinate the social forces of the Reformation. He was nothing if not intellectual, and he brought his mighty powers to bear upon the mysterious and perennial problems of religion; and so it is that he stands, classed with such spirits as Augustine and Thomas Aquinas, as one of the few great theologians of the past. This is true, and yet how many forget, if they ever knew, that Calvin was never ordained as Roman Catholic priest or as Protestant preacher of the gospel.

Judged by history, he was at least as much a statesman as a churchman. Although Sir William Hamilton says: "Looking merely to his learning and ability, Calvin was superior to all modern, perhaps to all ancient divines," yet this great divine was only a layman and a lawyer, and whatever of honor or of dishonor attaches to his name must go to the learned and liberal profession of the law. His father, at Noyon in France, was himself an ecclesiastic, but he dissuaded his brilliant and precocious son from taking orders and prepared him for the more lucrative vocation of the law. He pursued his legal studies under two very famous jurists, Petrus Stella and Andrea Alciati, rival leaders of their time. He received the degree of Bachelor of Laws at Orleans February 14th, 1531, and on leaving the university was offered the degree of Doctor of Laws without the usual fees by the unanimous consent of the professors. It is recorded that he distinguished himself so highly in these studies that on one occasion, when the professor was absent for a few days, the youthful Calvin was requested by him to take his place, and he did so with great dignity and success.

Without question Calvin's training for the law greatly influenced his whole work. Dr. Philip Schaff says ("History of the Christian Church," Vol. VII, p. 306): "The study of jurisprudence sharpened his judgment, enlarged his knowledge of human nature and was of great practical benefit to him in the organization and administration of the Church in Geneva, but may have also increased his legalism and overestimate of logical demonstration."

Calvin's career was the legitimate product of his principles. He was a genius, and a genius possesses that marvellous versatility of faculty which transcends the limitations of local conditions and vocational training. Calvin the lawyer was a greater theologian than many a learned prelate or parson, because he had the rare gift of insight into the great problems of the Infinite. His study of law could have been no mere conning of statutes or reciting of precepts and precedents, but with his *penchant* for the underlying philosophy of all human phenomena he must always have been pondering the science of jurisprudence and measuring the forces that make and sustain the social fabric. He studied under the *régime* of the old Justinian Code, and to a mind like his, with the best education the universities of his time afforded,

with his fine humanistic culture, with his wide sweep of vision, and with his penetrating powers of observation and of inference, no code could cramp his thought and no book of statutes could limit the range of his reflection.

And yet those early days at Orleans had been fixing the moulds of his maturer thinking. His theology was to be cast in the categories of jurisprudence. The lawyer begins with the first datum of *authority*. He deals with a rule of action imposed by a superior, which an inferior is bound to obey. The sanctity of that authority is the first condition of the social order, and the maintenance of that order is absolutely necessary to the lawyer's world.

Calvin the theologian is Calvin the lawyer transferring his thought from the sphere of human jurisprudence to that of the divine. Unlike that other great jurist-theologian, Hugo Grotius of Holland, his conception of God is that of judge rather than that of governor. Calvin's theology, like every theology that strikes its plummet straight to the bottom, was also a theodicy, and it is just this theodician valuation of it which presents both the seed-thought and the crux of his whole system. His conception of the universe is essentially theistic. The world is theogenetic — God-originated; it is theocentric — God-centred; it is theocratic—God-governed; it is theologic—it has its *rationale* in God. God is Creator and Governor of all; but above everything else, He is Judge of all; and this is the juristic principium on which he builds his whole system.

In speaking of Calvin's system-building, it must be observed that what differentiates his theology from a philosophy is the fact that the source from which he drew his material was not the intuitions or excogitations of his own consciousness, but the teachings of what he devoutly accepted as the inspired Word of God. If he posited his authority by faith, that faith, he held, was not without or against reason; and in any case it gave him the authority he must have. Protestantism, to be sure, has all along been charged with repudiating an infallible pope and substituting for it a less to be preferred infallible book; but, it is replied, the charge is based upon a misapprehension. Infallibility is strictly predicable of a person rather than of a thing. God only is infallible, and the Book is the attested, veracious and trustworthy revelation of His will. A man may presume to usurp the

functions of the infallible, but a book never. It is not the book, but the God who speaks by and in the book that Protestantism holds in supreme veneration. John Calvin found his data in the book, and the prodigious powers of his synthetic genius arranged into a logical and systematic order the truths which Scripture furnished him. In the technique of this system the legal training of his mind is evident both in the positive structure and in the keen dialectic with which he anticipates and refutes opposing views.

Calvin's view of everything else took its cue from his view of God, and that view was based upon certain legalistic conceptions. The integrity of God's government waits for its consummation and its vindication upon His righteous judgment in the end. His law is not only an order for His creatures to obey; it is a principle which regulates even His own dealings with His creatures. He is not legislator only, He is not administrator only; He is the Supreme Judge and as such, so to speak, He is superior to Himself as the Supreme Ruler of the world.

Calvin's God is not the deification of some one attribute, as power or justice or love; nor is He the apotheosis of some mere prerogative as, for example, that of sovereignty, as is so often affirmed. His belief in God's sovereignty over the world is only a corollary from his conception of what God is. Predestination, taking the finalities of the future into its purview, is only a necessary sequence, a logical implicate, of the same theistic postulate; and certainly to us men it must be that the consummation of his purposes waits for the final assize of the Supreme Court of the Eternal Right. To this test Calvinism has always had to come. Is its scheme just? Is its God righteous? Is its view of the destiny of moral beings, of the course of free and responsible agents, of the divine attitude toward human personality, right?

Calvin was fully sensible of the gravity of this test. He rested on the faith that the Judge of all the earth will do right. He safeguarded the rights of real freedom, while denying the freedom which exists only in the name; he accorded to man the royal rights of personality in that he possesses the responsible power of choice, which, however, is not incompatible with the over-arching, all-embracing control of another. He affirmed the holiness of the divine, while yet that divine ordered, but never itself

effectuated, the evil that blights the world; that evil is born of free creature-spirits endowed with powers of self-initiating efficiency; and underlying all this was the more or less definite legalistic conception of Authority without which there could be no world of order and no adjudication of the rights and wrongs of time or of eternity.

But Calvin's training in the law shows itself in the substance as well as in the form of his thought. The lawyer's postulate of authority is everywhere in evidence. By temperament he was a student and a recluse; by force of circumstances only he was the teacher of the people and the leader of a movement. Calvin himself was no democrat. His influence has always been for the development of democratic principles and progress, but he himself was in principle rather an aristocrat than a democrat. Both in State and Church, he traced authority to a source above and not below. Only under certain conditions is the *vox populi* the *vox dei*; and those conditions are rarely realized. The seat and source of all legitimate authority is in the Supreme God. His law is final, and the violation of it is bound to be avenged. Theology finds the law of God in His word; it calls its violation sin and the penalty eternal death. Ethics finds its law in the constitution of man, individual and social; it calls its violation vice and its penalty self-ruin. The state finds its law in its constitution and statutes; it calls its violation crime, and its penalty is of its own arbitrary determining. Thus viewed, sin, vice and crime are distinct factors, being infractions of as many different standards. But while the statesman deals with crime, the moralist with vice and the theologian with sin, the philosopher, piercing beneath the surface, perceives that the three standards are, after all, not three, but one.

Man is not only God's creature, but His image also; and though the image is broken, yet the reason that is in him is, to use Lotze's phrase, "the pale copy" of the divine Reason, and therefore man's moral sense is an expression or at least an echo of God's law; hence vice, which is essentially a violation of man's own nature and entails a destruction of the best that is in him, is, after all, a violation of the law of God.

Moreover, "the powers that be are ordained of God"; the theocratic idea of the state need not be pushed very far until we see that crime, which is the breaking of its law, is also a

violation of God's law as well. Thus we see that the three conceptions merge into one and to a Calvin, who sees God in all things, that one is primarily that of sin. God is the great legislator for human affairs. Any Congress or Parliament that enacts laws inconsistent with His is a usurper, and to violate its statutes makes the criminal but marks the saint. Legal right when morally wrong is to be honored by good men only in the breach, and legal wrong when morally right is to be consecrated by a persistent maintenance. Human lawmakers have no right whatever to legislate except as they republish and apply what is eternally right, whether men sanction it or hold it in contempt. God's law of right is the constitution of constitutions, and no statute of men which is inconsistent with it is valid for their conscience or their conduct.

Nor is this the fiction of a scholastic theologian. It has its illustration in every civilized modern state. The invasion of a personal right is an offence not only against the person, but against the state. An Englishman's theft of his neighbor's purse is not a wrong against his neighbor only; it is a crime against the Crown. An American's assault upon the person of his fellow is a crime against the whole body of the people; and in England "the Crown," in America "the people," will prosecute and punish the offender. A tort is not a private wrong only; it is a public crime. Sir Henry Maine tells us ("Ancient Law," third American Ed., p. 359) that in primitive jurisprudence "the criterion of a delict, wrong or tort, is that the person who suffers it and not the state is conceived to be wronged"; and so the very development of the law of tort into the law of crime marks the advance of civilization from the infancy of jurisprudence. The authority of the state interposes and avenges what it regards as an offence against its own Majesty. Only construe personally this theory of government and we have found no final tribunal this side the authority of the living God.

Calvin held this view absolutely. All wrong is sin. "Against thee, thee only, have I sinned and done this evil in thy sight." This was the spirit of his age, and, while the Genevan was the creator of later ages, he was, of course, largely the creature of his own. His exaltation of the divine was the impulse that gave birth to the emancipation of the human. It is no accident that for so long Switzerland has been the home of freedom. Calvin

was far less concerned for forms of government than for its spirit,

“For forms of Government let fools contest
What’s best administered is best.”

His methods may seem to us harsh and crude, but he was dealing with hard conditions to which this age is a stranger. He was standing upon the heritage of tradition. The *corpus juris* of Rome and of the Holy Roman Empire enforced the absolutism of authority. The pontifical jurisprudence had formally consecrated, but still perpetuated the idea. The Middle Ages had witnessed the growth of cruel conditions and arrogant despotisms, and it was the chief characteristic and splendid achievement of the Renaissance that, in the sphere of thought, in the wide outreach of its intellectual interests as well in the deep soundings of its spiritual life, this conception of authority was retained, but modified, refined, tempered and related to all the affairs of men’s social and religious life.

Right or wrong, this was Calvin’s view of authority. All right is God’s right, and therefore all wrong is against God. In this we see Calvin the lawyer applying to the confused conditions of his age and place the principles of Calvin the theologian. Permanent advance is often effected through painful experience. Calvin’s work as magistrate of Geneva was the application to concrete conditions of the principles of his faith. His influence was personal, not official. He never held a civil office. Indeed, he lived in the city for years before he became a citizen of Geneva.

In many minds the connection of John Calvin with the burning of Servetus in Geneva, in 1553, is the sun-spot big and black enough to hide the sun of his name and fame. It is now over three and a half centuries since that event, and certainly this should be long enough to cool the passions and clear the judgment of mankind. The twentieth century would give little heed to any partisan who begins his brief by insisting that Servetus, however virulent his heresy, however violent his blasphemy, however insolent his spirit, ought to have been put to death. If Calvin had it done or could have lawfully prevented its being done, then every honest man, Calvinist or anti-Calvinist, judging in the light of the present, must pronounce him grossly in the wrong. But Calvin knew the law, and the presumption is very strong,

from his course at all other times, that the prejudices of the theologian did not affect the duty or the honor of the lawyer.

Servetus was charged with the twofold crime of heresy and blasphemy; both of these were crimes long before the day of Calvin. Having been found guilty of these crimes, Servetus appealed to the "Churches Abroad" and Calvin was directed by the Council to make extracts from Servetus's writings to be submitted in the trial. When the churches of Zurich, Bern, Basel and Schafhausen joined in the trial their finding confirmed that of the civil court. Thereupon the "Little Council" sentenced Servetus to death by burning and ordered that a printed copy of his book be burned with him.

It is difficult for us Americans to understand how heresy could be a crime; but what has been said opens the way for the explanation that a denial of the truth of God is a violation of the law of God, and as the state is God's organ of government the sin is also a crime. Sir Henry Maine suggests that heresy was reckoned an ecclesiastical offence because it was "supposed to be included in the First and Second Commandments." The Justinian Code made heresy a crime cognizable by the civil courts and punishable with death. Servetus's heresy was abhorrent alike from the Roman Catholic and the Protestant point of view, and his fatal visit to Geneva was an escape from the stake to which the Roman Catholic authorities had condemned him.

But Servetus's crime included blasphemy also, a crime in almost every state since the days of ancient Israel. It is a crime to-day in the United States, and many of the States have records of its punishment. Judge Kent has said: "No Government among any of the polished nations of antiquity and none of the institutions of modern Europe (a single monitory case excepted) ever hazarded such a bold experiment upon the solidity of public morals as to permit with impunity and under the sanction of their tribunals the general religion of the community to be openly insulted and defamed. The very idea of jurisprudence with the ancient lawgivers and philosophers embraced the religion of the country."

But was not Servetus's punishment incommensurate with his crime? Certainly, we being judge. But the law fixed the penalty. The Jewish law imposed the death penalty and the tragedy of Calvary was consequently enacted. Pagan Rome burned its

"Atheists" or threw them to the wild beasts. The code of Justinian punished heretics and blasphemers as malefactors and in Scotland the same law existed, and as late as 1696 Thomas Aikenhead was executed in Edinburgh for heresy. The English Common Law made blasphemy a capital crime. Until 1824 the English laws punished with death one hundred and sixty crimes and, in our own America, witchcraft was punished by death as late as 1692, a little more than two hundred years ago. All this shows nothing except that the horrors of Servetus's death were not exceptional. The fact is that Servetus was tried by a civil court for a crime with which he had been charged and that, being found guilty, he was punished according to the law that then existed.

We are not concerned to acquit Calvin of the charge which has been so often made that he as "Dictator" drove the "Little Council" on to the sentence and its execution. We do not believe that a careful and unprejudiced examination of the chronological order of events in Geneva leaves any grounds whatever for the charge. While the Servetus trial was on, Calvin was *persona non grata* to the "Little Council." Berthelier championed Servetus, not because he loved Servetus, but because he hated Calvin, and during the process of the trial the council ordered Calvin to admit him to the communion and Calvin refused to do it. In February, 1553, the elections gave a sweeping victory to the Libertines and to believe that Calvin was able to influence his bitter political enemies against Servetus, or in any other way at just that time, is to credit him with a power greater than his most ardent disciples have ever claimed for him.

Calvin had a lawyer's clear conception of the relations that should exist between Church and State. The same principles that made him a republican in civil government made him a Presbyterian in the Church. He did not insist upon the absolute separation of Church and State, for God is the head of both, and yet he held to the two distinct spheres of Church and State. In matters purely spiritual the Church owes no allegiance to any power in the state; in the regulation of her own doctrine and worship she knows no authority superior to her own. The Church is not, however, a purely spiritual entity; she has organizations and equipments and properties, and in safeguarding her proper rights against all comers she may have occasion to seek re-

dress in civil courts. When this happens the Church must cheerfully accord the supremacy of the state. She seeks the vindication before civil tribunals of her civil integrity and her legal rights, and when she thus becomes a litigant she must consent to have her proceedings scrutinized and her acts judged to the end that her claims may be sustained; and if sometimes the courts decide that her actions have been without warrant in her own constitutional provisions or have been in violation of the laws of the state, and are therefore pronounced invalid, then as a lawful subject and loyal litigant she must submit to the final judgment. But such a judgment, favorable or unfavorable, is forthcoming only when some civil right is involved and never merely upon the spiritual actions and interests of the Church herself.

This great principle is based upon the Protestant conception that the Church is a spiritual institution with Jesus Christ as its only head. It is the view held by Protestants in countries where there is no establishment; it is the happy principle that is accepted by all Churches in this country.

It was Calvin the theologian's doctrine worked out constructively in Calvin the lawyer's city. The great lawyer of Geneva was easy master of the philosophy of the law. His was a constructive mind, and he lived at an age when such a mind was the supreme necessity. In America he would have been a James Wilson and a Jonathan Edwards in one. He was no writer of sketchy briefs; he was no corporation counsel and director; he was no "business lawyer," whatever that may be. John Calvin, theologian, educator, pastor and reformer, was a lawyer by training and profession, and although we can hardly say that reforms and reformation were his pastime or theological systems a chance by-product of his big and busy brain, yet this man whom Renan called "the most Christian man of his century" was only a pale, frail layman of Geneva without a tiara and without a crown. We believe that his "Institutes" could hardly have been written as they are if he had not been trained in the keen logic and dialectic of the law, and that the Reformation would have been without its greatest intellectual prophet if he had not had his wits trained and sharpened in the law schools of Alciati and Peter the Star.

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