

The Romans can, with some justification, claim the credit for having introduced the most important legal and religious concept of war into the history of human thought. Thereby they made a very notable contribution to the historical development of international law. To the Romans we owe the idea of the 'just and pious' war which has for centuries characterized and influenced the thinking of Western Christendom about the place and practice of war. The idea is still with us today. Like the conception of natural law, the story of the 'just and pious' war is that of successive contents flowing through an ancient concept.

In the Rome of the kings it was the function of a special college of priests, the *fetiales*, to carry out the somewhat elaborate religious and legal procedures, the *jus fetiale*, determining the declarations of war and peace between the Roman people and their enemies. The *jus fetiale* formed part of the Roman *jus sacrum*, and thereby imported a moral and legal element, over and above that of religion, into the formal procedures of establishing peaceful and hostile relations between Rome and other political communities. The task of the *fetiales* was to determine whether the duties owed to Rome by her neighbours had been violated, i.e., whether or not Rome had been wronged. These wrongs were well established and defined in Roman religiolegal thinking and formed part of the substantive content of the *jus fetiale*. These wrongs constituted the causes of 'just and pious' wars to the Roman mind. Upon analysis they are remarkably mature and show a distinctly sophisticated type of thinking brought to bear upon inter-community relations at a relatively early stage in their history. The *jus fetiale*, which dates from the sixth century B.C., recognized four causes of war which were properly considered by the Roman people to be 'just and pious'. They were:

- 1 violation of the Roman dominions;
- 2 violation of ambassadors;
- 3 violation of treaties; and
- 4 support to an enemy of Rome by a hitherto friendly state.

The Roman *jus fetiale* displayed a civilized maturity in demanding a further requirement. Before Rome was entitled to resort to war against the offending state satisfaction must have been demanded and denied. If the *fetiales* considered that one or more of the four causes of the 'just and pious' war had occurred they formally demanded compensation from the wrongdoing community. This demand was supported by an oath of the *fetiales*, a very solemn affair, formally committing the Roman gods to the justness of the Roman cause of complaint. Conversely, and no less important, the execration of the Roman gods was invoked should it transpire that the cause of the Roman people was unjust or that a just cause did not exist. It can thus be seen how the intimate relationship between the 'just' and the 'pious' war became established

under this practice. War and peace-making receive the solemn weight of religious, moral and legal sanction, just as treaty-making had been buttressed by hostages and the commitment of the gods from the times of Pharaonic Egypt, and even earlier, during the Sumerian civilization of the closing years of the fourth millennium, B.C.

The Romans gave the offending city or community a period, if so requested, within which to consider the demand for satisfaction. This period was normally thirty-three days. If by the end of that period satisfaction had not been made, the *fetiales* reported back to the Roman Senate and people whose function it was to make the formal decision, war or peace. War declared in such circumstances was considered *bellum justum et pium*. Bearing in mind that the wrath of the Roman gods had been invoked by solemn oath of the *fetiales* should the Roman cause prove to be unjust, a defeat of the Roman armies would be taken as the clear answer of the gods to the justness of the Roman cause. Indeed, the Romans regarded all the ensuing miseries flowing from defeat in arms as the outcome of committing their gods to the justness of their cause. It may be suggested that the fact that the gods were pledged in this manner was a powerful inducement to gain a victory and an inspiration of much of the well known Roman bravery on the battlefield.

This conception of the 'just war' arose in the time of the Roman kings and was actively practised in early Republican times when the Roman virtues of *pietas* and *gravitas* gave a distinct meaning to the nobility and dignity of Roman public life. That is not to assert that the Roman Republican era was one of enlightenment and humanity, particularly in the actual conduct of warfare. It must be admitted that the place of the 'just and pious' war was in decline by the later Republican epoch. However, it may be said that in relation to the times of the late Roman Empire the practices of warfare in Republican times were comparatively moderate and restrained. The tragedy of Roman civilization was the departure from the values of Republican society in favour of the grossly depraved and evil way of life that emerged under the Empire. There can be little doubt that this change for the worse coincided with the increase of power, dominions, wealth and ease of living that accompanied the establishment of the Empire. The process was hastened and aggravated by the cosmopolitan elements and practices that penetrated Roman society at every point. With these changes came the abandonment of the religion and morality of the Republican era. In the time of the developed Roman Empire the brutality and licentiousness of the Roman soldiery were well known. The just war ideas have little place besides the cult of the Emperor as god and the practices of Mithraism. The latter were particularly prevalent in the army and in the occupation legions in Gaul and Britain. Although it is not possible to establish that the idea of the just and pious war had a moderating influence upon the actual conduct of warfare by the Roman armies, the brutalities and excesses of the

Roman soldiery under the Empire do not find a counterpart in Republican times. Stern and rigorous they may have been, but they lack that element of cruelty and atrocity for its own sake that we find so repeatedly in imperial times.

It can thus be seen that the conception of the 'just and pious' war was pagan in origin. The remarkable development in its history was its adoption and adaptation by Christianity. In order to describe more precisely the manner of its acceptance by Christian theologians, philosophers and canon lawyers, it is, I think necessary, to say something of the early attitude of Christians to war and to the calling of a soldier. It seems that the critical period is that immediately after the death of Christ, the period of the primitive and 'underground' Church. There will probably never be an end to the great debate among Christians as to the principles underlying the authentic Christian teaching about war and the conduct of warfare. The reported words of Christ himself, as handed down to us in the Gospels, do not give an authoritative or definitive formulation of this all important question. Most of the centuries' old arguments that have raged round the true meaning of Christ's teaching are inconclusive. The disputants, heavily committed to this or that Christian sect, rely upon crude deductions and inferences from the few known utterances of Christ upon this topic. Christ would seem to have been primarily concerned with the entry of the individual soul into the kingdom of his Father and the imminent realization of the kingdom in the second coming. War is essentially a group activity. Groups have no soul. As such, groups are neither candidates for entry into, or rejection from, the kingdom of God. Private killing of man by man was already expressly proscribed by the Law of the Old Testament which Christ came to fulfil and not to destroy. In this respect the new dispensation of grace confirmed the old dispensation of law. It was left to the Christian theologians and apologists to make the bridge of moral doctrine between the condemnation of private killing and the killing by a soldier in a public war.

For the early followers of Christ the problem of their approach to war and the participation of Christians in it as soldiers was neither acute nor immediate. Living under the daily conviction of the second coming of Christ in majesty, not required to serve in the Roman pagan armies, and their numbers being too small to attract much attention from the Roman authorities, their daily preoccupation was to spread the Gospel to the Gentiles. The attempt to convince their Jewish brethren was not a noticeable success. During the long period of the underground Christian Church at least up to and about 180 A.D., practising Christians did not, as a general rule, enter the Roman armies. As long as the Roman Empire was not in peril and pagans were plentiful, the Roman authorities had little occasion to conscript Christians. In the main the Christian element in the population, being of the servile class and cosmopolitan, as well as pacific and secretive in temperament and disposition, was not considered

suitable military material. The moral standards and religious fervour of these early Christians were very high. Lapses were infrequent and severely punished. The Acts of the Apostles make this clear. Expulsion from the Christian community was ordered for sexual perversion. Penance was granted once and once only in a lifetime. The result was that it was normally postponed until death was imminent.

In the unfolding of faith, sanctity and burning zeal in the early and heroic Christian Church, the need to think out a clear attitude to war and the calling of the soldier was not felt to be paramount or urgent. The contact of Christians with the soldiery was frequently as the victims of torture and death. By the hands of the Roman soldiery the blood of the early Christian martyrs flowed. When this experience of the Roman soldiers is associated with the development of the cult of Emperor worship, then, apart from any inherent incompatibility with the acceptance of the exclusive divinity of Christ, it is understandable why we hear so little about Christians in the Roman armies during the greater part of the first two centuries A.D. The military parades held on the Emperor's birthday on which the troops wore a chaplet of myrtle and burnt a few grains of incense, whilst taking the oath of loyalty to their Emperor and god, were not activities likely to encourage the Christians of the early Church to enter upon a military career.

It was not until the Roman frontiers became seriously threatened from without and subversion threatened from within that the question of conscripting the now enlarged number of Christians became a practical matter. It is at this juncture of public events that the Christian became confronted, head on as it were, with the grave moral question whether he ought to serve as a soldier to preserve the frontiers of an Empire ruled by a pagan god. Up to that time it is suggested that all the external and internal factors had been dissuasive of the Christian volunteering as a soldier. Roman writers of the time such as Celsus, who had little love for Christians, enquired what Christians did to preserve the Empire under whose rule they lived. We know that contemporary Christians, when taxed with this practical question, replied that they prayed and thereby helped the Empire. The question and the answer lend some support to the general contention as to the absence of Christians from the armies of Rome. Cadoux, in his work *The Early Church and the World*, written in 1925, summarizes the position thus: 'we may perhaps venture to say that, though on the one hand, no unanimous prohibition had been laid down by the Church, yet on the other, up to the reign of Marcus Aurelius at least (160–180 A.D.), no Christian would become a soldier after his baptism'. What we do not know are the precise reasons.

In the period 180–250 A.D. Christian writers appear who treat of this theme with cogency and a sense of its importance to Christians. This is the period of Tertullian. In his work *On Idolatry*, written before he fell into the errors of the Montanist heresy,

he wrote: 'How shall he wage war, nay, how shall he even be a soldier in peace time without the sword which the Lord has taken away? For although soldiers had come to John and received the form of their rule, although even a centurion had believed, the Lord afterwards, in disarming Peter, ungirded every soldier'. After the end of this period we find the same principle in the writings of Origen. Writing in 248 A.D. he states: 'We do not serve as soldiers with him (the Emperor) even though he requires us to do so'.

The great dividing line in the history of the Christian faith was the succession of the Emperor Constantine to power and the Edict of Milan of 313 A.D. If the sole objection to Christian participation in wars had been the pagan nature of the Empire and the divinity of the Emperor, it would be reasonable to assume that the Christian objection to the waging of war was now dissipated. If on the other hand the objection lay deeper, secreted in the very quintessence of the Christian faith, then merely one objection among others had been removed. This is really the centre of the controversy among Christians to this day. The Catholic Church tends to see the Edict of Milan as the instrument by which the barrier to Christian service in a war was removed. There are, however, other considerations of which only two will be mentioned here. Running through much of the early Christian writings, particularly those of the Eastern Fathers such as St Basil the Great, of the fourth century, there is an objection based upon the aversion to the shedding of blood. It is probably older than the Christian religion and is based upon the need for purification by those who perform the divine sacrifices as priests. It is traceable in the Old Testament. It is not surprising that it should have influenced Christian doctrine in relation to the celebration of the new Sacrifice, the Mass, where a victim, pure unspotted and undefiled, is offered in commemoration and for the redemption of all those who are unclean from sin. St Basil expressed this idea thus: 'Our fathers have not put in the class of homicide those massacres that are made in wars, persuaded as it seems to me that one must pardon those who fight for good and justice; but I would advise that they be deprived of Communion for three years because they have bloody hands'.

In the light of this trenchant observation from the most eminent of the Eastern Fathers it is not surprising to discover that the Eastern Orthodox Church never adopted the conception of the just war which became so central a part of the thinking of Latin and Western Christendom for many centuries. There is not much room for the idea of the just war if the view of St Basil is accepted. Here we may discern a forerunner of those prohibitions of the killing of a man in a public war which run throughout the Penitential Books of Western Christendom from the seventh to the eleventh centuries. The penance imposed is minor. It is for a period of forty days. It is the dying echo of an earlier and purer Christianity which nevertheless thrived in the Eastern Church.

It was, throughout the Middle Ages and later, one of the great points of division between Western and Eastern Christianity.

The other factor was more mundane but equally important. Constantine had come to power by a series of wars. This same Emperor had now lifted up Christianity to be the official religion of the Empire. Were Christians ready with a moral answer to meet the new situation? The answer must, I fear, be that they were not. They were caught, I suggest, in a state of moral disarray and the world still suffers from the effects of their unpreparedness. Cadoux succinctly expresses their predicament in these terms: 'When the events of the years following 313 A.D. suddenly called upon the Church to come down definitely on one side of the fence or the other, she found that a free decision was no longer open to her. Her joy at the deliverance Constantine had wrought for her was so great that it put her off her guard. She found herself compelled by the eagerness with which she welcomed him (the Emperor), and by his own immaturity of thought and inconsistency of practice, to make his standards of righteousness in certain respects her own. Henceforth it was out of the question for her to insist on an ethical view and practice on which her own mind was not clearly made up and which her great protector would naturally regard as dangerous disloyalty to himself. Official Christianity was now committed to the sanction of war – so far as the practical conduct of Christian men as citizens was concerned – whenever the State chose to wage it. Further than that, the decision not only settled the practical question for the moment and doomed the dissentient voices – many though they still were – to ultimate silence, but it tied up the freedom of Christian thought and made any unfettered discussion of the problem on its merits next to impossible for centuries to come'.

This seems to me to be the crux of the matter. All that happened thereafter, from the first design of the just war doctrine delineated by St Augustine and crystalized by St Thomas Aquinas in his *Summa Theologica* nine centuries later, was the natural development of the events attending the Edict of Milan. The great transition to the acceptance of war by Christians had been made. The decision had gone against Tertullian, Origen, Clement of Alexandria and St Basil the Great. The Roman edifice of the just and pious war was there ready for use and adaptation into a Christian framework. The ancient *jus sacrum* and the polished and elegant reasoning of Cicero was there ready for use by the Christian philosophers, canonists and theologians such as St Augustine, Hostiensis, St Thomas Aquinas and the later Spanish theologian-jurists of the sixteenth century. These men built the Christian edifice of the just war idea but the foundations were laid at that fatal time in history when Constantine brought the Christian Church out from the underground of zeal and martyrdom to form a part of that worldly establishment, with all its flowering evils, which the primitive

Church had avoided and under which it had suffered torture and martyrdom. From then on the corrupting influences of the world would operate, fully and unrestrained, upon the Church. At the same time the numbers of Christians had vastly increased. As the area of Christianity expanded so it became harder to preserve the exalted and saintly standards of the early Church of the catacombs. To the warlike tribes of the North and the West, to the Gauls, the Vandals and the Goths, fighting and the shedding of blood was their being. For these races the appeal of Christianity was slight enough without the added incompatibility of a prohibition upon the carrying of arms and the resort to war.

Life-line by Ronald Torbet

Complacent afloat the perilous seas of blood
The dreaming paschal swimmer struck
And blindly, lightly, held
The proffered life-line for his forty crisis days
(This is the day created for our joy) ;
And found on waking that he held
This hand of flesh
With all its past and future hours engraved
Firm in his own for ever,
For heart's greater, sweeter danger
In the higher waking dream,
Securer now afloat more perilous seas of Blood.