

static equilibrium without a thoroughgoing reconstruction of the fundamental premises which underlie present legal theory.

The moral told by the Cycle of Law is probably unwelcome to the reformers who hope to bring about the social millennium by a single stroke of legislation, for a common law that has withstood the shocks of equity reform and the deluge of statutes and codes undoubtedly has sufficient toughness to meet the strain of future storms. On the other hand, since the longevity of the common law has been due to the fact that its elasticity permitted it to bend under a weight that would have crushed a rigid substance, the moral can afford but little comfort to the reactionaries who expect to keep an iron lid pressed down upon forces of change. In the far-reaching panorama of legal history that has been flashed before the reader, all the apparent contradictory elements in law appear as part of one great movement. Statutes, equity, judicial legislation, are the methods by which the law grows and expands, while common law decisions, and constitutions are the ways in which the new growth is assimilated to the old system. Thus the law grows like a sturdy oak, adding successive rings of sap to the inner heart wood until it develops strength and stability without losing its capacity to add new branches and to stimulate the flow of sap that keeps the whole organism alive.

Law attains its golden mean when it supplies a remedy for every injury while adhering to stable principles, when it represses violence and unstable conditions with one hand and dispenses new theories of justice to fit new conditions with the other, in short when it coincides with the predominant aspirations of society by happily uniting the opposing principles of stability and equity. The law fluctuates above and below this golden mean, the magnitude of the oscillations being great when society is in a state of flux and small when society is bound by custom, but whether the deviations are large or small the law tends ever to seek its level despite the dams interposed by legislatures or courts.

“ARE YOU GOING BACK TO JERUSALEM?”

BY CHARLES CLEVELAND COHAN.

ON the very day that the word came flashing along of General Allenby's capture of Jerusalem I met a Christian friend of mine who greeted me with the words, “Well, the Holy City has been delivered from the Turks. Are you going back to Jerusalem?”

I merely smiled at him and remarked that considering the fact

that from at least eight hundred to a thousand years or more must have elapsed since remote members of my family had resided in that locality I perhaps would find the place too much changed to suit me.

He might have been facetious in his query. I meant to be more or less so.

Subsequently his query recurred to me, and to my mind came the thought with much engaging force, "Why—perhaps the very question which my friend asked me is the spoken or unvoiced query which Christendom is putting up to all those of Hebraic faith!"

I do not for a moment mean to imply that such a question carries with it anything of peremptory demand. Far from anything of the sort. It merely is the propounding of a natural question induced by the knowledge of Palestine's quondam rulership, of Jerusalem's place in Jewish history, and of years of analysis of Biblical prophecies. Also there has been much discussion verbally and in contemporaneous literature of the Zionist movement. Indeed even casual inquiry leads one of Jewish faith to the belief that every Christian, even without stopping to analyze the proposition, takes it for granted that every Jew in the world is looking forward with intense hope to the time when he and his could betake themselves to Palestine to assume their places in the affairs of a restored Jewish nation there.

Truly it is to be granted that there is something fascinatingly picturesque in the thought of a mighty return to the land of the Fathers. Visualized, the picture is that of great streams of a sturdy people who have won a way to high estate in the progress of the world, wending their way in stately and even awe-inspiring march to the Holy Land, the land of the Covenant and the Ark, of the prophets and the Bible, of the greatest epochs of religion known to mankind. And then that view fades to be replaced by one of a newly reestablished nation, one of peace and peaceful pursuits—abiding calmly, nobly and safely on its holy hills and in its sacred valleys, secure from inner dissensions because of a desire to realize a hope of the centuries and safe from without because of the protecting arms of the civilized powers that recognize the validity of such a holy nation.

Yet no matter how beautiful a painting may be, the artist in preparing it needs must give due heed to the colors that form it, to the technique that designs it. His imagination as he paints may be in the artistic clouds, but he must make use of brushes and of muscle and other material things.

There can be no materialization of a picture of Jewish re-

occupancy of Palestine and especially Jerusalem without taking into close consideration the materialistic things which must be employed in its delineation.

The Zionist movement abounds in noble purposes and high-sounding terms. Can it take all Jews back to Palestine?

The discussion of the Zionist movement is of itself a matter for lengthy and most serious study, and yet my Christian friend could not ask me, "Are you going back to Jerusalem?" without causing the Zionist idea to come quickly to my mind, and with it something of its purport and possibilities suggesting itself again.

The first opposing argument which the Zionist meets is that the task of bringing all Jews back to Palestine at one time would be too gigantic to permit of serious consideration. But then if the Zionist declares that Zionism is not meant to be an immediate "back to Jerusalem" movement for those of Jewish faith, but is a matter of evolution, a serious flaw presents itself in his argument. If the ages spent by Jews among the enlightened nations of the earth have caused them to become most intense integral parts of those lands, then the longer any Jewish family remains implanted in the nation of its choice and love, the farther will be the ramifications of its roots in that land. certainly the more difficult to transplant its root, trunk and branches into any other soil, even that of Palestine.

Verily, the wonderful Shylock pronouncement of Jewish sensibilities might well be paraphrased to describe the status of the Jew to-day in whatever land he is a citizen and indicate his innate feelings regarding the subject, thus:

"Hath not a Jew loyalty? Hath not a Jew patriotism, sense of duty, love of his country, pride in his citizenship, appreciation of his rights, regard for law and order? Fed with the same propaganda of national righteousness, hurt with the same national calamities, subject to the same national exigencies, healed by the same proper legislation, warmed and cooled by the same political arguments, as a Christian is? If improper governments get into control, are we not bled? If we are tickled by great national achievements, do we not laugh for joy? If you order us to the front to fight for the national cause, do we not die? And if you wrong our citizenship, shall we not resent? If we are like you in the rest, we will resemble you in that."

By the manner of his citizenship in whatever nation he resides, the Jew, these many hundreds of years, has demonstrated that his nationality is that of the nation of which he is a citizen and that in religion only he is a Jew.

Are there arguments on that point to the contrary? On what logic can they be based?

A man born in this country is a citizen of this nation whether his parents be Jewish, Catholic, Protestant or of any other religion. When a man becomes a naturalized citizen of this country he swears allegiance to it and renounces his former allegiance to the land from which he came. When a Jew is born in this nation he by constitutional decree becomes a citizen of this republic—he is American by right of birth. When a Jew becomes a naturalized citizen of this country he does not forswear allegiance to any Jewish nation existing in imagination, or, as it were, spiritually, but he renounces allegiance to that country of which he formerly was a citizen. By what right of logic, then, can the native born or naturalized Jew be informed that “by nationality you are a Jew” by either Jew or Gentile?

And if the argument is advanced, as it has been by some, that the Jews are a nation in everything but possession of and residence in the same country because they have not had an opportunity to assemble in the one nation, then by what rule of thumb can the desire to assemble in this one country be ascribed to all those of Jewish faith?

The French Jew is thoroughly French in sentiment and even in mannerisms. The English Jew is British all the way through. The American Jew is as American as any one of his native born or naturalized neighbors of other creeds.

The generality of the subject can best be illustrated by a specific instance. The writer's father was one of those western, trail-blazing pioneers who braved every hardship and danger in the prairie-crossing days of the early sixties to aid in preparing the great Northwest for settlement. His pioneer history is the epic of all sturdy, determined and purposeful pioneers. His bride joined him in pioneer days. His sons and daughters were children of the West. They have an American heritage that is sacred to them by reason of each and every trial and tribulation and disappointment and achievement of the pioneers who made the West so vital a part of this great American republic. They are American from head to foot. They know nothing but American customs, American methods, and cherish no ideals of nationalism other than those which are American.

That is the exact status of the average American of Jewish faith. He is a lover of his country, of the Stars and Stripes. Whether he is in Congress, on the farm, in the office, delving for

ore in the depths of the earth, working beside the glowing furnace—in any and every vocation he is an American. He is an American statesman, banker, farmer, miner, butcher, baker, candle-stick maker, pugilist, journalist, and so on. He is a desirable citizen.

The same is applicable to the Jewish citizen of any other civilized country, his nationality being of necessity that of his fellow-citizens.

Publicists by the score herald the taking of the Holy Land from the Turks by Great Britain as the first step in the repopulating of Palestine by the Jews. They argue that under British protection, a Jewish nation could and would flourish there. The flourishing part would be true not only because of the British protection, which of course would be a vital factor, but also for many important economic reasons. The Jew as a good citizen is essentially a home builder, a developer of natural and other resources. Palestine has a good soil. It needs irrigation projects and other advantages. Its cities need modern sanitary methods. Palestine needs the invigorating influences of a progressing, determined and efficient population. Great Britain and all other civilized nations know that the Jews would be a splendid proposition for Palestine. Jerusalem is an important strategic point for the protection of the Suez Canal and other great purposes. If the British government could convince Jews in sufficient number that the proper thing for them to do would be to inhabit Palestine and to form a government under British suzerainty, that would be a masterpiece of British statesmanship. And indeed it would be a wonderful blessing for thousands of Jews—Jews who are misjudged and mistreated and made the victims of bigotry and superstition-induced torture in certain parts of Europe. No American of Jewish faith is likely for a moment to oppose any Zionist move for populating Palestine with Jews there to establish a state of their own if they can. For, enjoying the protecting friendship of the other great nations of the world, they could make it a safe haven for thousands of Jews from Russia, Rumania and other European countries where oppression is still their lot. And it would be a magnificent plan for the Jews who are living there now in a condition which, because of many years of Turkish misrule, is all but calamitous.

But when it comes to asking all the other millions of Jews, "Are you going back to Jerusalem?" what answer can be expected if not such a one as points out concisely, and in a way that should be convincing, the facts which militate against any such general Jewish move.

There is a physical side to it involving important economics.

Palestine has about ten thousand square miles, as nearly as can be estimated. There are about thirteen million Jews in the world. They all could get into Palestine, but they could not all go in for intensive farming with such quick results as to cause them to be self-supporting. In fact many of them could not farm at all. The building up of cities, of manufacturing enterprises to make such articles as could be sold to other countries—indeed the placing of the country on a self-supporting basis would have to be a matter of progress involving years of endeavor—and with no Jews remaining in any of the other countries from whom to solicit sufficiently large funds for carrying Palestine along pending that country's success in getting on its feet. This is not to imply at all that people of other faiths would not contribute to such Jewish relief work, but they could not in fairness be expected to do so to such an extent and with such frequency as would properly be looked for from co-religionists if any of these were left in a position to contribute from abroad.

To all this the reply is bound to be made, "Why, any one can realize that. No one expects every person of Jewish faith to pack up forthwith or even in the course of the next few years and leave for Palestine."

And this certainly is the right sort of an answer.

But my Christian friend asked me, "Are you going back to Jerusalem?" and doubtless many thousands of Jews right here in the United States were asked that same question on the same occasion and for the same reason. Perhaps the same happened in Great Britain and France and Italy and elsewhere.

No—I am not going back to Jerusalem. I cannot even positively say I came from there. That I entertain the theory that some of my remote ancestors did is after all based only on hearsay evidence, though I am mighty proud to think they did.

And there are some millions of us of the Jewish faith who have a true love for this American republic of ours. Aside from our pride in our ancestral home and even if economic conditions there were such as to enable all Jews to return at once, and admitting that the scenery of the Holy Land with its sacred associations is most alluring, and agreeing that the climate is most pleasing and opportunities are great, and believing it to be a great and a glorious place where Jews oppressed and unoppressed in other nations could rest secure and demonstrate in full their ability in art and music, in literature, industrial enterprises and commerce, to say nothing

of athletics and such matters, there are certain innate characteristics born right in our souls and the flesh and bone of us that make us really Americans and not merely sojourners here. We show that to be true by our conception of citizenship. They are characteristics which naturally make us love this Land of Liberty—cherish to the utmost those principles of humanity which are the foundation and bulwark of this republic—glory in our American citizenship—feel thrilled by the history of the United States—thankful not only to be able to enjoy this republic's blessings of life, liberty and the pursuit of happiness, but deeply grateful that we are imbued with the desire to do our part in whatever way we can and whenever we can to uphold those blessings and the nation which has so wonderfully promulgated them.

We are inspired by the splendor and grandeur of this American nation. We have had too much to do with the establishment and progress of the republic to consider ourselves even for a moment only sojourning aliens here. Our lives are too much interwoven with the fabric of the nation to permit us or anybody else to think we are merely visiting here in order to take advantage of the safeguards provided by the republic.

There are thousands of us in the service of Uncle Sam. Much of our blood has been spilled in the fights of this nation from the Revolutionary war to the present day to maintain the greatness and the power of the republic and the humanitarian principles it upholds. Much of our blood will be spilled on foreign battlefields in the carrying of Old Glory to its great triumph in vitally participating in the democratization of the world. Those of us who are not on the firing line and are destined to do their share at home, are devoting sincere efforts to aiding in the success of all those endeavors which make for the sustaining of the fighting men, and we are doing it with real American unselfishness as well as devotion to duty.

The Bible student points to the prophecies in Old and New Testament and bids us prepare to return to Palestine. He says that Holy Writ so orders it for he so interprets it.

But we Jews look up and see the Red and the White and the Blue floating over us and the Flag symbolizes to us the grandeur of a land of the free and a home of the brave, and we are inspired by the thought that we are a part of such a republic. Our Jewish children learn the "Salute to the flag" in the school-room and love for the nation is inculcated in them not as transients but as conscientious Americans. In our hearts is the exulting feeling that the

Almighty, who granted the forming of such a republic as this, who has guided it safely through stress of conflict from within and attack from without, who has made it a refuge for the disheartened and the oppressed and the exile, and the land of opportunity and encouragement for them as well as for the ambitious and the able, means us to be true to our trust in American citizenship. Surely we could not but be possessed by the unshakable conviction that He means us to continue doing our part in upholding the republic and to show our appreciation of the blessings it has given us and gives us by being Americans now and for ever.

MISCELLANEOUS.

OUR FRONTISPIECE.

On the 14th of July the French celebrate the anniversary of the storming of the Bastille, which was the beginning of the French Revolution. As this date marks a new epoch in history, the whole world celebrates it now, and the tune of the Marseillaise, the battle hymn of the republic which finally emerged from the upheaval that started on that fateful day, is popular to this hour wherever free men rise against tyranny.

The Bastille was the prison which under Louis XIV began to acquire its fame as the jail to which the king as well as the noblemen of his *entourage* would send their political and personal opponents, without trial, simply by a *lettre de cachet*. It was looked upon as the bulwark of the *ancien régime*, its name as the symbol of oppression. The man who in 1789 occupied the throne of France, weighed down with all the curses heaped upon his ancestors, was of a harmless, even good-natured disposition. He might have been popular, had he not been married to that beautiful and refined, but superficial princess, Marie Antoinette, the daughter of the famous empress Maria Theresa. The people hated her, *l'Autrichienne*. Neither of the royal couple was able to cope with the great problems of the day. Louis XVI was not a tyrant and saw no need of filling the Bastille with prisoners, but he lacked insight and foresight. He did not even know that the masses were starving, he did not dream that something like a financial calamity might foreshadow a revolution.

There were no political prisoners in the Bastille when it was taken by the Parisian mob. The guards who garrisoned the stronghold capitulated and, lowering the drawbridge, gave free access to the crowds who came as liberators. The commander had been assured of his own safety and that of his men and his officers, but the mob did not keep its promise. The men in charge were massacred without mercy.

The king had been hunting on that day. When he was informed of the capture of the Bastille, he is reported to have said, "*Mais c'est une émeute,*" but the officer replied, "*Non, Sire, c'est une révolution.*"

The Bastille was practically empty when it was taken and its few inmates, common vagrants and thieves, were set at liberty with great display. It was not their persons that mattered. It was the place where they had been held captives—a monument of tyranny of whose fall and destruction they bore living witness.