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GERMAN LAW AND
GERMAN LAWLESSNESS

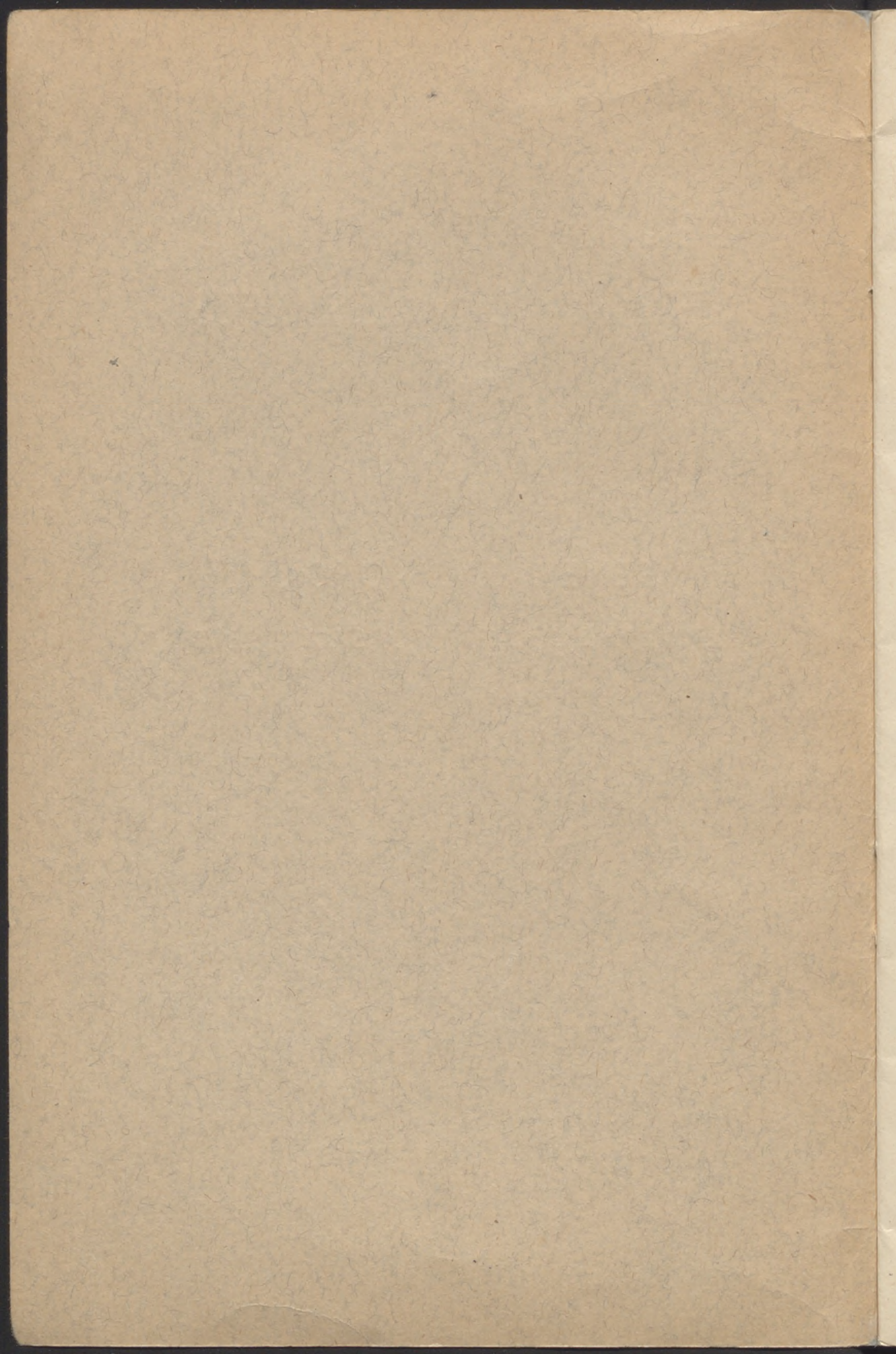
AN ADDRESS :

BY

GENERAL SIKORSKI

BEFORE THE UNIVERSITY OF ST. ANDREWS

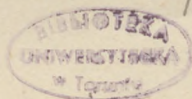
ST. ANDREWS UNIVERSITY PRESS
1941



“ Gaude, Mater Polonia
Prole fecunda nobili
Summi Regis magnalia
Laude frequente vigili.”

With these words a choir of Polish soldiers greeted the academic procession as it entered the historic Parliament Hall in St. Andrews on Friday, 28th February, 1941, when the University conferred upon General Sikorski, Commander-in-Chief of the Polish Army and Prime Minister of the Polish Republic, the honorary degree of Doctor of Laws.

The ceremony was held within the Library of the University, in the room known as the Parliament Hall, where during the eighteenth Century, in times of stress, the Scottish Estates had held momentous meetings. In addition to the Senatus Academicus and Members of the University Court there were present the Right Honourable the Earl of Elgin, Lord Lieutenant of Fife, Professor Kot, a leading member of the Polish Government, high officers of the Polish Staff and many of the Polish troops. Professor J. N. Wright, Dean of the Faculty of Arts, promoted General Sikorski to the degree which was conferred according to the ancient ritual by the Vice-Chancellor, Sir James Irvine. Thereafter General Sikorski, the youngest Doctor of the oldest Scottish University, delivered an impressive address on the spirit and purpose of Law, which is to attain *Right and Justice*. He emphasised that whereas all civilised nations base their conception of these two principles on moral considerations, to the German mind Right and Justice mean nothing more than what German power and brutality can enforce. 314826



Promotion Address
by the Dean of the Faculty of Arts.

MR. VICE-CHANCELLOR,

I have the honour to promote to the Honorary Degree of Doctor of Laws General Wladislaw Sikorski.

SIR,

The Senatus Academicus, even in these sombre days, considers it seemly, as regards the hour and the man, to confer this Degree *honoris causa*. General Sikorski, Prime Minister of Poland, Minister of War and General Officer Commanding the Polish Army, has, from his early days, combined the passive pursuit of learning with its active application to the well-being of his country. A student in the Mechanical Arts and Sciences and in the Art of War, from youth an impassioned patriot, he had, in 1919, the foresight and the courage to be amongst that band of Polish patriots whose ability and energy led to the liberation of their country. The use of mathematics in the pursuit of war is no new study. What distinguished Sikorski was his success in its application. Within two years his genius enabled him to defeat the Russian Armies and had raised him to be Chief of the General Staff of the Polish Forces.

The establishing of peace found his talents in statesmanship matching those in war. Prime Minister in 1922 and Minister of the Interior, he settled the Eastern Frontier of his country; in 1924 as War Minister he founded the





War Industries of Poland and encouraged that miracle of construction, the port of Gdynia. During the recent years, a writer on military and political topics, he has shown the acknowledged wisdom and insight of a master, and his prophetic book, "The Modern War," mirrors the whole deathly tale of present armed strife.

The savage rape of his country in 1939 has brought to him the task of restoring a State which, largely by his personal ability, had already once been built and he stands before us, statesman and soldier, in each supreme. The Senatus Academicus, ever solicitous of genius, desires to honour this man of uncommon gifts uncommonly blended, and offers this Degree as a token of merit, a sign of friendship to him and to his compatriots, and an emblem of hope for his country and our common cause.

Graduation Address by
Sir JAMES IRVINE, D.C.L., F.R.S.,
Principal and Vice-Chancellor.

FELLOW-MEMBERS OF THE UNIVERSITY,

We have gathered here this morning to pay homage to a brave soldier and patriot who represents for us the unconquerable Polish nation. Under the conditions in which we meet—when men keep stern watch and guard by day and by night—the light-hearted gaiety, the pomp and circumstance of a public graduation would be out of place; but our ceremony loses nothing and indeed may gain much through being held in the peace of this historic room.

Only those who are utterly devoid of vision—and lack of vision is not characteristic either of the Pole or of the Scot—could fail to be moved profoundly by a ceremony in which all hearts have joined. Here, standing on the very spot where liberty of learning first came to Scotland, surrounded by his comrades-in-arms and by friends old and new, the Commander-in-Chief of the Polish Armies has received our academic accolade. An honour has been given, but the greater honour is ours for, in the bestowal of that gift, the Mother of the Scottish Universities has laid her tribute at the feet of the suffering Polish people.

Perhaps it were best to leave emotion to play its part in silence, for words are soon forgotten. Abraham Lincoln, standing on the battlefield of Gettysburg—unconscious of the lasting power of his own inspired eloquence—proclaimed

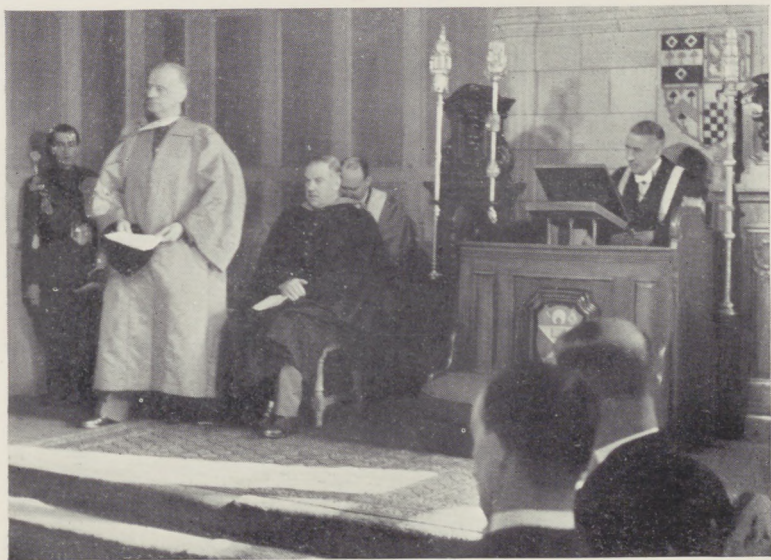
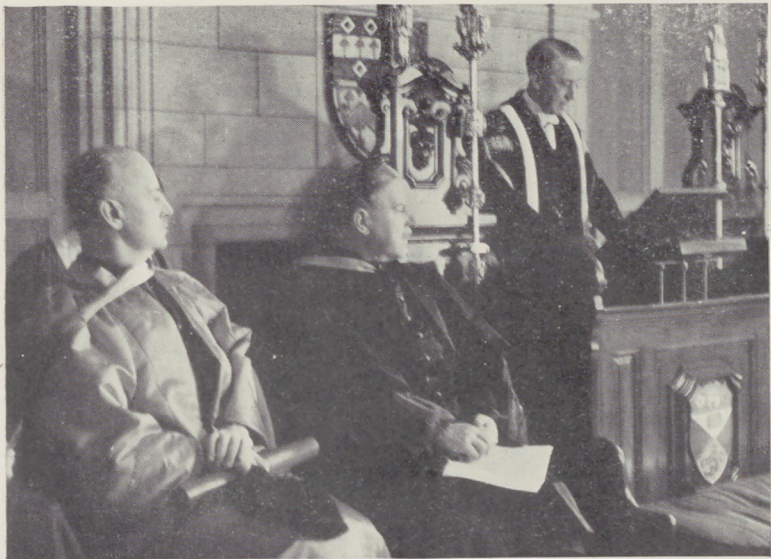
the conviction that the world would little heed and scarce remember what was said on that day—only what men had done on that consecrated ground would endure. I know full well that what is said to-day by me will quickly be forgotten, but it is my fervent hope that what we have done here will long be remembered. When the tumult of war is stilled, when men turn once more to rebuild on surer foundations the civilisation which brutality seeks to destroy, may the friendship of Britain and Poland point the way to a new spirit of brotherhood between nations. That hope bids our thoughts travel forward to a future which carried the happiness of peace and it is no vain dream that history will affirm that the bond between our nations was sealed anew in the Parliament Hall of St. Andrews on the 28th day of February 1941, in the second year of the World War of Liberation.

I shall not dwell on "the tragedy of Poland," although that sorrowful picture is ever before our eyes—no tongue can express the intensity of suffering the Polish people have been called upon to endure, for they have heard Freedom shriek not once but often. In this congregation there must be many a heart stabbed with the agonies of uncertainty and with memories of loved ones who live or lie in that ravaged land; our Scottish hearts respond with sympathy and understanding. But there is another picture of Poland radiant with her glory, a glory created by generations of patriots and artists, soldiers and scholars, and by the simple lives of the peasant people. You, Sir, and your comrades are adding each day to the noble record of the Polish nation, and we Scots who look on applaud your work.

This is an occasion for thanksgiving, for we owe you much—you and your countrymen. By zeal for the cause we share and by steadfast endurance you help to defend our homes against a bitter enemy, but that is not all. You help us also by the example you set of spirit triumphing over the sorrow of loss and the bitterness of exile—there is no despondency on the faces of your men as they march through our streets: there is determination in plenty but there is also the cheerfulness of hope which reaches us in their songs. In your own words, Sir, these men are entrusted with the honour of their nation; they have not failed you in that trust.

It may seem strange if, speaking from a University platform, I add that their presence in our midst has given us a fuller appreciation of the blessings of learning and of the advantages we enjoy. The burning desire of Polish soldiers to keep alive the things of the mind, their constant endeavour to secure that in winning a war they do not lose their souls is a lesson to us who lead cloistered scholarly lives. The thirst for knowledge is pleasant when it can be slaked in the comfort of a study, but can be as the thirst of the desert when it must remain unsatisfied in the hard daily round of the soldier's life. We trust that in some measure this University has been able to repay part of the debt we owe by such help as we have been privileged to give to satisfy that need.

All Scotland has been proud to welcome our staunch Allies and to renew, with a fuller understanding and with brighter hopes, an old relationship which stretches back to the Middle Ages. With God's blessing that bond will grow ever closer and ever stronger, for our nations have





much in common—simple faith, love of beauty, love of country, love of truth—and withal that unshakeable determination expressed in the words of another Polish hero:—“To be vanquished and not to surrender—that is Victory.”

Together we look forward to a victory which does not call for so great a sacrifice. When that day comes, General Sikorski, and you ride into Warsaw at the head of your victorious troops may you display before all eyes a trophy from your graduation day at St. Andrews. By happy chance and good augury, the hood on your back carries the colours of your beloved Poland; tear off a strip of white and scarlet and hand it to your pennant-bearer, so that Doctor Sikorski may lead the men of Poland home.

I ask this leader of brave men to address us.

Address by General SIKORSKI.

MR. VICE-CHANCELLOR, MY LORD, LADIES AND GENTLEMEN

First I would like to be allowed to pay my homage to the oldest Scottish University, within whose walls I stand to-day, and which for many centuries has been the spiritual capital of this country—to the university which has such a glorious past, whose name commemorates for ever the patron Saint of Scotland. The honour you have so gracefully and so unexpectedly bestowed on me to-day is one which I deeply appreciate and shall always proudly wear, but it is not, I am sure, bestowed on me for merely personal reasons ; I would interpret it as a public evidence of your sympathy with the Polish nation and your interest and friendliness towards the Polish Army. And to my thanks I must add my heartiest gratitude for all the kindness which has been shown to the Polish troops by everybody of all classes in Scotland, for the sincere and charming hospitality of the Scottish people. No matter where and when these Polish troops have fought, after their valiant defence of their own country—at Narvik, at Metz, at Belfort, in Brittany and on the Marne—they have found nowhere a warmer welcome, and nowhere made so many steadfast, loyal, understanding friends, as in this country, this Scotland of yours. Having overcome the greatest difficulties, this army reached the coasts of this island, here together with you to continue its uncompromising struggle against the greatest evil which has ever menaced humanity.

The price which we have paid in this war is incalculable. But we persist and shall persist in our determination to make each and every sacrifice that Providence may still demand from us, in order to restore Poland to her former greatness. The struggle we are to-day waging together with you is a struggle not only for the right of Poles to independent existence ; it is also for the freedom of the whole Christian civilised world. And that is the true significance of to-day's ceremony, which does me so much honour. As the youngest doctor of the oldest Scottish University I would like to trace the connection between the idea which I represent as Commander-in-Chief of the Polish Forces, namely, the idea of an uncompromising struggle for freedom at all costs, and the conception of law which is the very basis, as you well know, of the civilisation you represent. Allow me to devote my " doctoral " thesis to this particular theme.

Juridical thought should not be alien to the military mind. The Romans, the first great organisers of a world Empire, excelled in the two domains, passing on to their descendants both the military art and the law which they had elaborated. The association of these two spheres is not fortuitous. Law should always be the most essential element and the basis of every army. For the army which loses its legal basis ceases to be a regular army, and becomes merely an armed band, devastating a country and reducing it to anarchy. On the other hand, the State which loses its army sooner or later loses also its legal basis. Law and armed force, the scales of justice and the sword, are two old inseparable comrades, neither of which can live long without the other.

All law is based on the factor of force, which does not in the least mean that law is the dictate of force. Orders issued by an authority which possesses the sword are not *ipso facto* law. If they are absurd or unethical, inconsistent with common sense or conscience, they do not become law, even though they be proclaimed with all due formalities and be furnished with all the formal appurtenances. That is indeed the basic conception of British law, which very early developed "Equity Law," the law of what was honest and proper, under which every juridical standard must be in agreement with the law of Nature and conscience. Thence derives the importance of the unwritten or "common" law which, as I am continually satisfying myself, is nowhere else so important a factor as in the British Isles. One of your own professors, three centuries ago, expressed in the title of a famous treatise the point I wish to make: when Samuel Rutherford wrote "Lex Rex," he crystallized into one pregnant phrase the assertion that the State and authority are not above the law, but that the law is above the State and authority. Hence the conviction that international law, although the State did not call it into existence, is a law equally obligatory with State law.

For the British the State is not divine, nor an ethical oracle, nor an all-consuming Leviathan. It is certainly the most important political organisation of a society or nation, but not the sole and all-absorbing organisation. Like the individual, the State is subject to the commands of God, which are deeply engraved in our conscience. These commands are higher than the regulations imposed by the State, and any conflict between them deprives the





latter of its legal character. In accordance with this British conception, law has certain bounds, which are defined for it by the moral sovereignty of the individual. Here the individual is not a soulless automaton as he is in the totalitarian States, but a being created in the pattern and image of God, possessing certain natural, inalienable rights, of which he cannot be deprived by any authority or any legislation. The principle of the sovereignty of nations also imposes restrictions on international law. No nation can be treated as an instrument, as manure for another nation. Each nation has an end in itself for which it lives, develops and moves towards perfection. And so, in your view and ours, every nation has natural and inalienable rights, of which it cannot be deprived.

The German conception of law is completely different. For the Germans, law is the dictate of force, nothing more. The norm which has obtained State sanction for its execution, becomes the legal norm, even though it be in fundamental conflict with ethics or common sense. For the Germans, the State is divine, it is the supreme moral and religious oracle. For them, the interests of the State are the highest good, and so in the German conception no conflict can exist between law and ethics. The Germans proclaim and recognise only the nationalistic ethic, the German ethic. On the other hand, they ruthlessly reject all idea of a universal ethic, binding upon the entire human race. According to this German theory the individual has no personal rights. Absorbed in the all-powerful State, he is only its instrument and a component without will of his own. They adopt a similar standpoint in regard to international law. Other States

are treated as *Lebensraum* for the German State. Nations do not possess their own moral sovereignty or any rights. They are only an instrument and a manure for German greatness and power. For as many years as the Germans have paid homage to their extreme nationalistic principles, this conception has imposed upon the German a continual violation of international law, for they recognise that law only as long as it serves their peculiar and egotistically conceived interests.

So German law is not only a synonym for violence internally, where it deprives the citizens of property, liberty, citizenship and life, without guilt and without trial ; where it organises massacres and pogroms, imposes concentration camps and scientifically and methodically organises barbarities ; where it persecutes religions and confessions, and abolishes all civic freedom. It is equally a synonym for violence externally, namely, in the sphere of international law ; where (to confine myself only to Polish affairs) the Germans arbitrarily tore up the Ten-Year Pact of Non-Aggression with Poland ; where they made an armed attack on our country without declaring war, and even without warning, violating the Hague Convention of 1907 ; where they bombed and bombarded civilian settlements without military significance or means of defence ; where they fired upon defenceless refugees, upon women and children ; where they arbitrarily incorporated Polish territory into Germany, treating it as an indivisible component part of the Reich ; where they shoot tens of thousands of Polish citizens for their fidelity to the principles innate in all civilised nations ; where they are still brutally deporting Poles in masses from their

native homes to become a prey to cold, starvation and violence; where they are carrying off cultural treasures wholesale, cynically plundering Polish museums, libraries, laboratories and universities; where they are confiscating Polish private property; where they are sending hundreds of thousands of Polish citizens to compulsory labour in the Reich and are treating them as slaves; where they are incorporating Polish citizens into the German army. All this is in perfect accord with the idea of German right as a right dictated by brute force always at the service of the State.

There have been many instances of violence in the history of humanity, both within a State, and in the international sphere. And it is not that element which is distinctive in the German system. Even the unprecedented dimensions of the misfortunes which they are inflicting on Poland are not decisive in the given case. What is outstanding and unusually menacing to the future of civilisation is the fact that Germans themselves have no conception of the unethical nature of their insane behaviour. They do not see lawlessness in their criminal violence, but only deeds of German right. They are infuriated with all who dare to reproach or criticise them. For, they say, acts ordered by the German authorities are legal acts, having all formal justification; they are issued by the State, that highest divinity, which is the source of all binding norms; they are in agreement with German ethic and the interest of the German State. What more could be required?

I do not say that this is moral blindness on the part of the Germans, I do not call it the moral insanity of that

nation. I go farther and declare that it is the peculiar mentality of the Germans, who themselves conceive of and envisage the essence of law in this fashion.

How different is the British mentality, which tends in the diametrically opposite direction. I would say that the British conception of law is based on the association of force in the executive sphere with an ethic, and that a universal and absolute ethic. The British know that law without ethic is violence and nothing more, just as law without force is empty rhetoric. Only the association of these two elements, force and ethic, produces the perfect instrument which can lead humanity forward on its march towards perfection.

Unfortunately, during the past two decades the element of force in the construction of international law has not been adequately appreciated. When the League of Nations was created, when later it was continually burdened with new obligations, when fine-sounding but purely paper treaties were signed, it was judged sufficient to base international law simply on the principles of justice, for it to be respected by the human community. It was forgotten to secure to the League and to all the endlessly multiplied international agreements a proper executive power. The element of force in international law was completely neglected.

To-day the entire edifice of international law lies in ruins. After we have won this war, we shall have to restore it, or possibly rebuild it from its foundations. In those days we must remember that law must be based on force, if the future co-existence of the nations is to be susceptible of constant and lasting improvement. The war



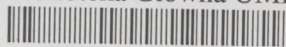


which we are waging is a struggle for the victory of our outlook on the world, which is contrary to the totalitarian outlook, the two outlooks being mutually exclusive. It is a struggle for democracy, for elementary liberty, culture and civilisation and ultimately for law, for that is an indispensable condition of all freedom in social organisation, and thus a condition of progress.

May the friendship of which you, Mr. Vice-Chancellor, spoke so eloquently and so sympathetically in your address of welcome, become a foundation stone for that true "Commonwealth of Nations," which we must build together, basing it on respect for the natural rights of man and of nations.

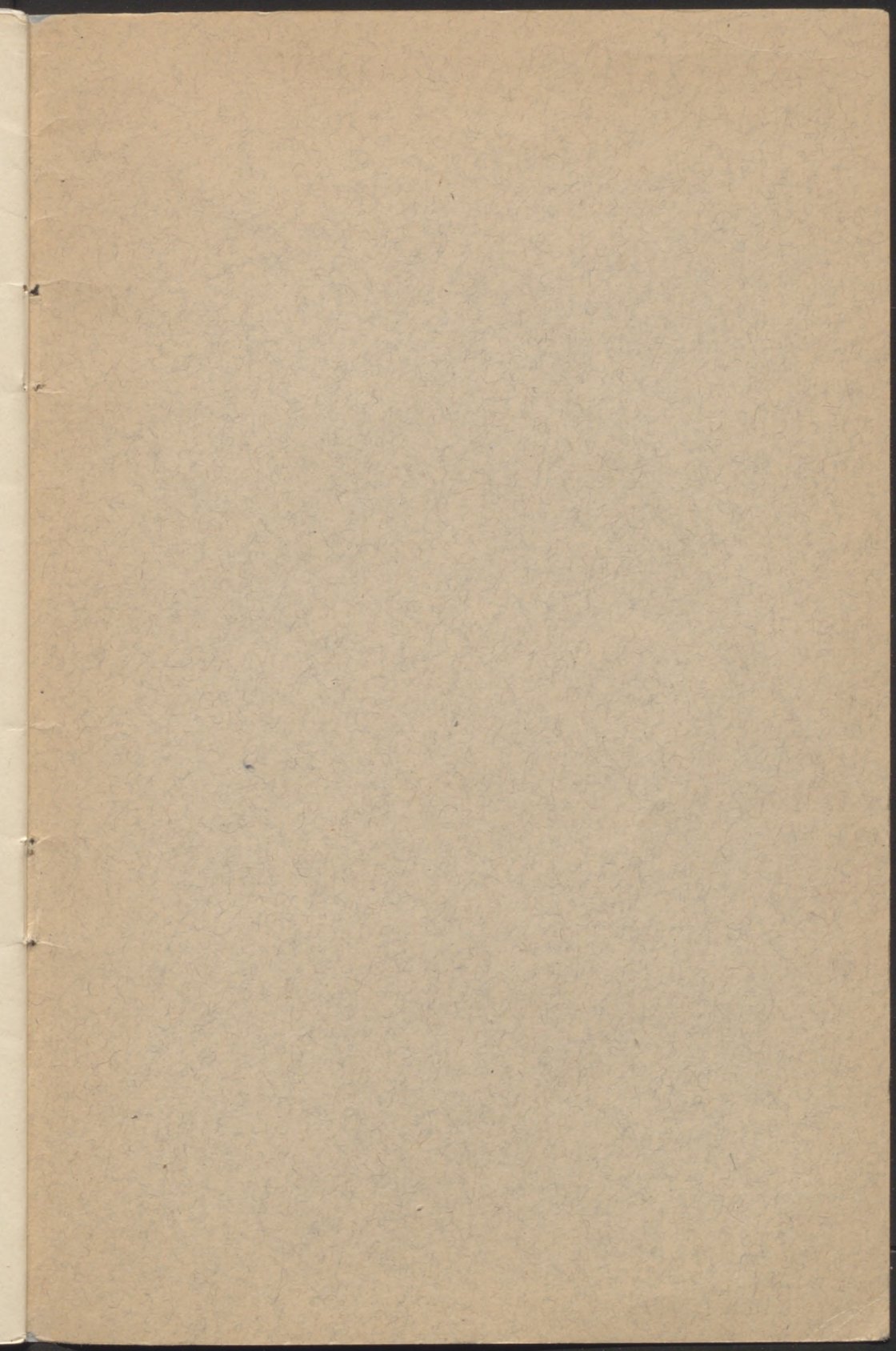


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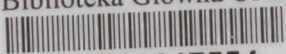
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