

force upon them a clientele whose minds or circumstances provide them no other choice.

We believe the panel provides opportunities for its members to capture and hold the idealism of the law. Is there more satisfying recompense?

**Address of Charles Fahy, Solicitor General of the
United States, Before the Georgia State Bar
Association, May 22, 1942**

I am grateful to you for the honor of speaking at this annual convention of the bar of my native State, my older home. It is good to be here, and I thank you for permitting me to join with you. Among the foothills of the Blue Ridge Mountains to the north are my earliest recollections. There was the home, the companions, the community life, the first and lasting influences of a small town in this America we now fight to preserve. Unless fortune has been unkind indeed, to each is given some place to which the threads of life go back in pleasant retrospect. It may be North, or East, or West, or South. It may be even to far off lands. The place and time to which mine go back composed on the whole a peaceful and active life. It was not very unlike I suppose those familiar to many of you. There was the cotton in the fields, then in the bales and then in the warehouses. The streets of the town were crowded on Saturdays. On Sundays we went to church, some to one, some to another. There were the rivers and hills; the schools, the stores and the court. One day the eloquent judge left his court and came to a stand erected on the main street to dedicate a monument to the women of the Confederacy. Farther down the street already stood in stone the likeness of General Forrest. Beyond, across the river, rose the wooded cemetery; the town dead were close and friendly by. On each April 26th, in the morning, we went out into the woods gathering wild flowers, and in the afternoon we lay them by the stones that marked the rows of graves of Confederate soldiers. By those rows later newer stones were placed, for side by side with the older dead came the dead of 1917-1918, when the sons and grandsons of those who fought in the '60s fought for the

re-united States under the inspired leadership of Wilson. He, too, unto death, fought for his ideals. We know now that he was right.

Everywhere in the land are these rows of graves of those who have laid down their lives for you and me, reaching all the way back to 1775. They did so then for what they proclaimed to the world forever as "unalienable rights," and truths that were self-evident. Those rights are still inalienable; the truths they proclaimed are still self-evident, and both the rights and the truths remain unconquerable. That they shall live on into the future the rows of graves now must lengthen again. Some who die for them now shall have no sod upon which the colors of the earth may be gathered in flowers and laid above them. Blue waters shall weep over them. Men will die, some are dying now, in places far away from their native land. But let it be said with firm resolve that wherever Americans die in this war there America shall live. Following upon the paths of these valient, wherever they fall, the spirit of the Nation will come and stand guard and redeem the promise of the fallen, because they shall have fallen for all of us and all that we are as a Nation.

What is the reason this now comes to pass? Other nations have made it necessary. They have made this necessary because some strange and disordered darkness of spirit has taken hold of them. Laboring in the darkness of that spirit these nations have permitted themselves to set out to do the impossible. They seek to conquer the world by force of arms, they seek to destroy the self-evident truths, the unalienable rights that Jefferson wrote into the Declaration, and in which we believe. These other nations claim for themselves what it is not their right to claim, dominion by force over the world. It is clear that this is their purpose.

They cannot however, succeed in this purpose. What they seek to do is inherently wrong. Dominion by force cannot rule the spirit of the world. It is not given to some of the creatures of God to pervert themselves into the masters of all the children of God.

The instruments of the downfall of those rulers or people who set for themselves this purpose are the other peoples of

the whole world. Not only will the fantastic architects of the so-called "new order" fail, but the futility of their aims is already written by the course of events since they set forth upon this wildest of all ventures. They have in truth conquered no one, because they have conquered the spirit of no nation. Let us review the world situation that has thus far resulted from their conduct.

We may as well with the partner, Italy. Perhaps no people are more unhappy in their lot than those of this partner. Dominated and helpless, I venture to say the people of Italy secretly pray for the success of the United Nations, that they may be free of the arrogance and oppression to which their ruler has chained them in uncongenial bondage. Mussolini's dreams have turned to nightmares of disillusionment. There is no hope for Italy except through the victory of Italy's present foes. This is the strange but truthful irony of the plight its ruler has brought upon Italy.

There is Poland. Is Poland reconciled to this fate that now holds it down in cruel subjection? It is not. While held under the heel of the military conqueror of the spirit of its people lives, and will be loosened. The Nation has not and will not accept this so-called new order. Indeed, its men are now fighting wherever they can reach the side of the enemies of those who ruthlessly rule over their country. Poland keeps alive a spirit that sees through the darkness that has moved with heavy tread over its land and people. The suffering hearts of the Poles are turned toward a newer day when the instrument of their present disaster will crumble and disappear before their eyes.

There is Norway, overrun by sudden and superior force, and held down only by chains of mail. Norway's temporary conqueror has found its people, too, unreconciled. The hardihood and courage born of centuries of peaceful and industrious life in the rigors of the Northern clime emanate throughout the world as symbols to all that there is no surrender of spirit in Norway to the unwelcome and uncivilized force that came upon it from below the Baltic.

And Greece? Immortal Greece, peaceful and weak in arms, was yet unwilling to save itself from the misery and suffering

it could have avoided by surrender to the invading horde. It heroically chose to fight against this mighty but unacceptable power. Having battled to a standstill Mussolini and his fumbling machine, Greece was finally overcome by the might and equipment of the stronger and ruthless enemy. But no one for a moment believes that this modern child of ancient civilization will ever accept a master who relies upon the methods of Hitler. The spirit of Greece comes from such as Plato and Aristotle. To their land first came the divine Epistles of St. Paul to the Corinthians. Little can Greece learn from one who came as Hitler came.

And there is Denmark, and Holland and Belgium, the little neighbors. Think of them. What a neighbor was theirs. The death that rained upon these unoffending and decent little nations at the hands of their neighbor cries out to the avenging angel. One sees the pattern of the mind and soul, the darkness of the spirit, that brought about the crimes of their conquest. They, too, saw the pattern and would have none of it. To the best of their ability they stood against it. This strangest of all neighbors lies athwart them now, unwelcome, and lives among and robs them only by reason of superior force. Is this success?

We remember, too, Czechoslovakia and Yugoslavia. Who doubts the failure of the conquest there?

And lastly, of those who have gone down for a while, we consider France. I believe the French people love France, not France's military master. I believe the centuries of France's own struggles and triumphs, its contributions as a great people to the arts and sciences, its saints and its heroes, have not been obliterated from the minds and hearts and souls of the people of France. Some so-called leaders have been indeed propped up among them to collaborate with their enemy. But the people of France turn their thoughts to Marshal Foch, not Monsieur Laval; they love the younger Petain of Verdun who said "They shall not pass," not the aged and helpless Petain of Vichy. Nor have they forgotten the flaming courage of the Maid of Orleans. In the bitterness and confusion of their humiliation strange things occur there, but surely the people of France await deliverance from the cruel fate that followed their collapse. The recent trials at Riom, when men were dragged out

from the prisons, bore evidence to the world of the spirit that has been kept alive and so the trials were suspended. But the spirit of these men of France had not been suspended.

And so it is true everywhere. Notwithstanding the spectacular rush of successes of the well-prepared military machine that overran its weaker neighbors, the human race of this day sees this machine for what it is. The spirit of no conquered nation has been subdued. Therefore no nation has yet been conquered. The willing acceptance of no people has come to the side of the aggressors. They have completely and utterly failed where they have seemed most to succeed. It is perhaps the greatest failure in the history of the world. The "new order" is barren of the adherence that is essential to actual conquest. It converts no people. It lacks the quality. It inspires opposition. The spirit of even the conquered peoples of the world is the nemesis of these conquerors; and the depth of the suffering of these peoples is the measure of the failure of the doctrine of force, hate and persecution that has brought this suffering upon them. Force, hate, persecution, are not the instruments by which the people of the world can be conquered; and we know, to put it mildly, that they are not the implements of those who are the friends of the human race.

So it is that we see in every country they have overrun that the aggressors must leave armies of occupation. They cannot withdraw force. They bring no peace; they leave no peace; and so they must seek to move on as long as any people remains free, and while they press on they can not even move away from any place that they have occupied and leave that place loyal to them. This is the insignia of their failure.

While this situation prevails in those countries I have named, we turn to appraise the situation in other nations involved in this gigantic struggle, and there too we read even more clearly the footprints of the aggressors' failure.

There is England. Tottering back from Dunkirk and the fall of France, gathering to its bosom in stark courage the weary remnants of its shattered army, the spirit of England rose to challenge the darkest days of modern times. While his armies paused on the shores of France, Hitler drew upon his massed hordes of aerial destruction and launched them across the Eng-

lish Channel at the heart and hearths of England. For a few fateful days the result seemed to hang in critical balance. During those few days a few hundred young men, sustained by the spirit of their country and by their own rare skill and courage, swept the enemy from the daylight sky. It was a notable achievement in this great struggle. From that time on, neither by raining death in the night nor by scattering it along the lanes of the seas, has Hitler succeeded in pulling England down; rather it has grown in strength even with misfortune. Notwithstanding the terrible suffering its people have been called upon to endure England has gained in the battle, through the urgent outpouring of its labor and industry, the unbreakable determination of its defenders on land, on the sea and in the air, and the hardihood of its men and women in the homes of the land that they call their England.

Then we see the next great act in the devastating drama unfolded by these disordered master minds. They turn East. With pretenses of friendship you will recall they had drawn Russia in toward their own border to occupy a part of Poland. But the time came, I have no doubt as originally planned, to launch the fury of their might against the Russians. Was not this great land, and were not all its people, a part of the world that must be conquered? Pretending to the world at large, in the hope of creating division, that this was a holy war to rid the world of communism, they struck East with sudden and terrible might. But the world was not beguiled. It had had too much of pretense. It did not divide nor, it plainly appears, had Russia been beguiled by the previous and treacherous beckonings of friendship. The Russians too rose in all their strength to protect their land, their soil and their integrity as a nation. Through the terrible months from June last until winter came, they withstood the battering, and with a courage that made the enemy whimper inflicted wounds that robbed him of the power to gain his goals. In the lengthening nights of winter Hitler's armies came within the very sight of Moscow, and then, when the cold threatened disaster unless victory came quickly, the spirit of the Russians massed and hurled back the invading armies, defeated of their objectives.

England had stood. Now Russia stood.

o

Then what? Ah, then what indeed. Came Pearl Harbor. The other partner was unleashed. Japan attacked the United States, and thereby sealed the doom of Hitler and his partners. On that Sunday of last December occurred an event of tremendous significance in the history of the world.

Before we dwell upon the significance of this event in this world conflict, this attack upon us, the very citadel of liberty, some reflections upon America's relation to what had gone before is needed. To omit consideration of this would be to ignore factors of tremendous importance in the course of the events that had already occurred. Those factors include the moral position this Nation had taken with respect to aggression. It includes also the support we had accorded to the victims of aggression, within the constitutional limits of the Government's power when at peace. Rightfully the voice of America had not been silent. Our President had seen with clarity and vision the nature of this struggle and its consequences, and had spoken. There can be no doubt that the spirit of the peoples that now labor under the cloud of temporary conquest, the spirit that makes such conquest a frustration, incomplete and temporary, had been immeasurably strengthened by the power and the plain truth of the moral judgment of this great democracy voiced by our President and Commander in Chief. While maintaining the peace, silence with respect to our moral position would have been untrue to ourselves and to our place among the nations of the world. Unless we had spoken we would have failed in the fulfillment of an obligation and in the performance of a duty. Though some may have wavered for a time in the confusion of fast moving events, unparalleled in the history of the world, there was on the part of him whom we had chosen as our President no compromise of America's spirit with the dark spirit that moved from one proof of evil to another; and the judgment of this great nation upon the "new order" conformed to our traditions, and to the hopes and aspirations of those in other lands who were then bearing the brunt of battle and suffering and sacrifice. But more than this. As events moved on our people understood more and more clearly the determination of the aggressors to leave on this world no free nation free. So long as freedom lived any-

where it was a threat to the accomplishment of their plans. The very existence of a great free country with democratic institutions was abhorrent to their philosophy of force and hate and persecution.

In our own vital interest, we helped materially whenever we could do so within the framework of our responsive and constitutional system of government, with the support of the overwhelming majority of the people. In England's critical hours, for example, we exchanged destroyers she needed for military bases of critical importance to our own defense. With the consent of those free to give it, we set up establishments in Greenland and Iceland as protective ramparts to our own shores and to forestall the clutchings of the aggressors. Congress speeded the basic and sane enactments essential to national defense through the passage of the Selective Service Act, the acceleration of production of munitions, and the enactment after full debate of the Lend-Lease Act, under which, as was our right and duty, we became the arsenal of democracy and a source of help and of light to those who needed help and light in battling the darkness.

The Burma Road, in a far off land, became a route over which we evidenced our admiration and respect for the Chinese people, long suffering and valiant, a means by which we could send aid in a material way to support the epic stand of that great and peaceful nation turned by necessity to war. Notwithstanding incredible suffering, China held aloft, for itself and all its friends, and for all people everywhere, its answer to the war lords who now seek our own as well as China's destruction.

Condemned by the universal moral judgment of all free and peace-loving peoples, condemned by the moral judgment of all so-called conquered countries, it was inevitable that the aggressors should strike at America, the unscathed bulwark of liberty. This was their plan from the beginning. It was planned necessarily in the most formidable manner possible, and over a long period of time. By reason of this they met, as elsewhere, some initial success. It may be they will have further success, if it may be called that, for a while; but their calculations from the beginning have been doomed to failure. If there ever was

doubt or uncertainty, and I think there was not, there can be none now. Because, though we did not desire war and though our ways of peace entailed some unavoidable delays in full material preparation, there has been no delay in the great surge of our unified spirit, with which we have thrown ourselves into a guarantee of the outcome. The foes of America are formidable. We are and shall be more formidable. Freedom has the strength and courage to remain free.

We have drawn closer together. Internal and political differences are minimized. The initial inroads made upon us by the launching upon us of the fruits of a secret plan formulated during times of pretended friendship, with an utter abandon of moral values, have by their very nature made us more fully aware of the scope and difficulty of the task and, if possible, more fully determined to leave no means unused or any sacrifice avoided that by being used or by being suffered will aid the victory.

We know what our young men and our leaders are capable of. We saw it not many years ago in France. We have already seen it again in this war. In places long distances away, fighting against superior forces, our armed forces are upholding the finest traditions of America. Those traditions are being exemplified in ways that challenge the utmost devotion of the home front. The hardships that we shall be called upon to endure here shall be relatively light in comparison with the undertakings of our armed forces. These we will assume gladly, voluntarily, and to the fullest extent. To insure that the losses and the sacrifices of the nation shall result in its survival, to insure that the institutions of ordered liberty and peaceful processes shall live and grow, to insure that the right of peoples to live free of force, free of fear except the fear of God, free to worship—to insure, in short, the preservation of the rights and truths of which our founders spoke, we are equal to the task thus set for us. The time has come.

Let us pray that we shall not be unworthy of our individual and joint responsibilities, and that the success of our arms shall end these threats of oppression sought to be imposed upon the world. We will need all our fortitude, genius and strength. But we have it, in abundance, and we have the will to marshal

them completely for victory. We accept the responsibility of our day, with confidence in our leaders, with confidence in one another, with faith and hope, and with that charity from whose command there is no escape.

Something has gone wrong with the world of our day. We must overcome the consequent events and assume the burden that falls to us to destroy force in the hands of those who have wielded it to destroy freedom and human dignity.

While I have not spoken tonight as one lawyer to other lawyers, underlying all that I have tried to express is the law in its highest sense. We are in the end engaged in a struggle to reassert a reign of law as opposed to a reign of force. The underlying principle of our approach to the problems of government, by ordered liberty under law, functioning through the ultimate consent and will of the people themselves, is as youthful and as sound today as when the principle gained its finest exemplification and its greatest impetus through the foundation of this republic. This underlying principle has never been successfully challenged in the forum of thought. We must see to it that it is not successfully challenged in the forum of armed conflict. Under it our problems are capable of solution. We can decently work out our relationships with one another, and with other nations; and we can pursue in conscience our relationship to the common Father of us all.

As lawyers we are peculiarly alive to the issues. Drawing upon the bountiful resources with which we are blessed, upon our love of freedom to which we are wedded, we assume now the duty of our times to re-establish law, and liberty under law, and justice. By our material strength, enlivened by our spiritual strength, we shall join with the spirit that survives and grows in other lands in a common endeavor to end this mad era of force that is sought to be imposed upon us and them. May we not earnestly hope from the depths of our souls that when the authors of the present conflict have crumbled against these stronger energies, that through sacrifice and suffering the spirit of the world will have been lifted, and means will be found to rebuild upon foundations we have kept secure, so that generations of the future will bless our efforts as we bless those who in the past builded for us.