

William Bross Lloyd, jr.

# **Waging Peace**

## **– *The Swiss Experience* –**

Foreword of Quincy Wright

Preface by William E. Rappard

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## FOREWORD

The concept of Collective Security has come to dominate much thinking on international relations and peace since establishment of the League of Nations in 1920. The value of the concept is, however, challenged, on the one hand, by those who believe it tends to universalize wars by giving unnecessary weight to the hypothesis that under modern conditions both war and peace are indivisible. It is challenged, on the other hand, by those who believe that an attitude of impartiality among contending ideologies or policies, as manifested by the 'neutralism' of Nehru's India, may often prove a positive influence for peace.

The first of these challenges may have been a factor inducing the makers of the United Nations Charter to impose upon members a less automatic obligation to assist the victim of aggression than was imposed, at least in theory, by article 10 of the League of Nations Covenant. Under the Charter such an obligation arises only in consequence of a decision of the Security Council, concurred in by all the great powers and, therefore, not practically applicable against any of those powers. The United Nations, because of the probability of a veto, has had to rely in practice on co-ordinating voluntary action of its members through recommendations of the General Assembly, thus giving its members the opportunity to pursue a flexible policy in the light of the particular circumstances of a Collective Security operation. The deterrent value of Collective Security depends, therefore, less on legal obligation than on national policies and world public opinion appreciative of the value of Collective Security.

The second of these challenges induced the League of Nations to admit Switzerland as a member under express reservations of its permanent neutrality. The United Nations has declined to do so and Switzerland has been unwilling to become a member except with this reservation. However, by admitting Austria as a permanently neutral state the United Nations seems to have moderated its position and to have acknowledged that universal membership in the United Nations is desirable even though some members, because of their permanent neutrality, are unable to participate in Collective Security actions. Such permanently neutral states must, of course, be distinguished from states such as Sweden, Yugoslavia and India which are members of the United Nations without qualification, but pursue policies of non-alignment with any power bloc or collective defense arrangement without prejudice to their legal or moral obligation to co-operate in action against aggression when an emergency arises.

Mr. Lloyd indicates in this book that these problems of the obligations to act, of permanent neutrality, and of neutralism were all faced by the Swiss cantons in their five centuries of experience with Collective Security. Especially important is his discussion of the value of the recognized neutrality of certain of the cantons, permitting them to act effectively as mediators or to offer their territory as a meeting place for hostile cantons.

The book is concerned less with the relations of Switzerland and its neighbors, than with the relations of the cantons in their effort to preserve peace among themselves from the end of the 13th to the 18th century. During much of this period they were divided by religious differences and existed within a Europe split by religious strife. Almost continuous cold or hot war existed between Catholics and Protestants from the Reformation (1520) until the Peace of Westphalia (1648). This history, accompanied by Mr. Lloyd's astute analysis, is full of instruction for scholars, teachers and statesmen working on problems of Collective Security and the United Nations. During those five centuries Switzerland was a microcosm of the world. It succeeded in making Collective Security work to preserve the loose Swiss confederation and to minimize inter-cantonal hostilities in its small world. It faced modern problems of exaggerated claims of sovereignty, ideological war, and bi-polarization, moderated by the neutralism and permanent neutrality of some of the cantons.

Mr. Lloyd is to be congratulated that his prolonged research in the original documents in Swiss archives has led to such significant results. The book is a companion volume to the work of the late William E. Rappard, eminent citizen of Geneva, on the Swiss system of Collective Security. Mr. Lloyd profited by the advice of Dr. Rappard in making his study.

Quincy Wright, Dehli, India

## ***PREFACE***

As many other American friends of the Society of Friends, William B. Lloyd, Jr., came to Europe after the Second World War bent on a quest for peace. But whereas most of his brethren pursued their pacific aims mainly by bringing comfort to the victims of war through their generosity and the example of human fellowship, Mr. Lloyd had another, more specific and more intellectual purpose besides.

Here in the heart of the Old World was Switzerland which, throughout the centuries, had succeeded in maintaining within her own narrow borders the peace that her infinitely more powerful neighbors had constantly striven for in vain. Had this ancient republic which, in spite of its virile peoples, divided among themselves, as were those of the rest of Europe, by race, tongue, religion and tradition, no lesson to teach, no message of general import to deliver?

Were these Swiss by nature pacific? No, they were notoriously bellicose, when it came to fighting the battles of others. Were they indifferent to the charms of their local independence? No, they were almost morbidly jealous of the sovereignty each of his own canton. Were they experts in the arts of jurisprudence and diplomacy? No, d ivy icy had produced neither a Grotius nor a Talleyrand.

What was it then, in their history, that explained why, in spite of their quarrelsome instincts, their proverbial gruffness and their perennial desire to be the sole masters of their local destiny, they had been able to retain and indeed to consolidate their national unity in the midst of European anarchy and strife?

Mr. Lloyd came to Switzerland with the express purpose of solving this problem, of unraveling this mystery. The Swiss historians, some of whom he had read before coming abroad, had produced no fully satisfactory answer. Obviously they knew and they loved their country. But they were so familiar with its peculiar ways that they did not always seem fully aware of the strangeness of its fate. Mr. Lloyd thereupon set out to consult the sources. It was no easy task. Much of the relevant material was published, to be sure. But most of it in a very forbidding form.

In the minutes of the federal Diet from the Middle Ages until the end of the Ancien Regime was to be found an endless account of the ever renewed intercantonal discussions and disputes. But this account, contained in a long collection of heavy volumes each of over a thousand pages, was reprinted in archaic German, just as it had been written by the local registrars centuries ago.

Undaunted, Mr. Lloyd dug into this indigestible source material which had baffled the efforts of many earlier historians. Out of it all he has extracted the substance of the present volume. It is so simple, nay, so naively written,, that the reader might imagine that it is but a popular presentation of generally known facts. That is far from being so. Guided by his fervent desire to serve his fellow-men, he has sought to discover the secret of the survival of Switzerland through the warring ages. He has found it in the practice of patient conciliation and mediation as well as in active, albeit ever reluctant collective security. The Swiss, he has been led to believe, have indeed a lesson to teach the world, a lesson of moderation and of restraint. It is a lesson also of the advantages of neutrality when neutrality is maintained and practiced not solely for the benefit of neutrals but in the general interest of the would-be belligerents as well.

Mr. Lloyd has done me the honor to ask me to write a brief preface to his little book. I have overcome my natural hesitations for two main reasons. Fully alive to his noble purpose and having witnessed his untiring efforts, I would not feel justified in withholding my tribute of sincere admiration for his achievement. Moreover, the light he has thrown on certain aspects of my country's history, by considering them from the point of view of present-day international relations, may be a useful encouragement for our own endeavors. Have not many of us, engrossed as we have been by our research into the origin and growth of the cantonal trees, somewhat lost sight of the national forest? And, interested primarily in ourselves, as a small people is perhaps more than any other, have we not tended to overlook the general nature of much of our own historical experience? It is as a friend of mankind that Mr. Lloyd has approached his task. And it is as a friend of Switzerland that he has carried it out.

William E. Rappard, Geneva

## ***ACKNOWLEDGMENTS***

This book has benefitted more than words can express from the counsel of David Lasserre of Lausanne, former president of the Swiss Association of Masters of History, who has given advice and encouragement both as a friend and as an historian. In addition to writing the preface to this study, the late Dr. William E. Rappard generously took time from directing the center which he created, the Graduate Institute of International Studies at Geneva, and from the many other calls which were made on his vast knowledge, to advise me on the execution of this study. He also gave me access to the Swiss government report of his actively neutral mission to Paris in 1919.

Dr. W. A. Liebeskind of the University of Geneva helped in translating from the Swiss German the neutrality articles of treaties, and the director and staff of the University of Geneva library gave patient assistance in finding these and other source materials.

Dr. Quincy Wright's comments were a valuable aid in revision. To Dr. Frank P. Graham and Prof. William G. Rice go thanks for their encouragement and for reading and commenting on the manuscript. Responsibility for the statements made and the opinions expressed is, however, solely my own.

My wife, Mary Norris Lloyd, my sister, Jessie Lloyd O'Connor, and Edith Wynner read the manuscript and gave helpful advice.

William Bross Lloyd, jr., Winnetka, Illinois

*"Dans l'histoire, la Suisse aura le dernier mot."* – Victor Hugo

*"In their Swiss forms, there is a secret affinity between freedom and neutrality."* – Edgar Bonjour

# 1 Introduction

Impelled by the hope of finding some major keys to the problem of world peace, the author left the United States in the summer of 1949 to study Swiss political history. His expectations had been heightened by the views of an earlier generation of political writers, such as this statement by W. D. McCrackan in his *Rise of the Swiss Republic*:<sup>1</sup> "Look at Switzerland as she is even now. Does she not stand for a representation – on a small scale and imperfectly it may be – of what poets and philosophers have pictured to themselves the world might some day become? Is she not already, in her way, a miniature Parliament of Man? ... If these incongruous, often antagonistic Cantons [states] can meet upon some common plane and conform to some standard, can live side by side in peace and prosperity, surely the task of some day uniting the nations of the world upon a similar basis is not altogether hopeless and chimerical."

A compact little book by the late Dr. William E. Rappard, *Collective Security in Swiss Experience*,<sup>2</sup> abruptly changed the course of the author's inquiries, which at first had been aimed at a study of Swiss federalism. Reading this volume en route to Geneva, he came upon the arresting information – unaccountably omitted from most histories of Switzerland in English – that neutrality was an important phenomenon of the country's *internal* as well as its *external* relations. Dr. Rappard's book revealed that early in the sixteenth century the very loose Confederation of that time had appointed three of its thirteen members to act as permanent neutrals in disputes among cantons, constitutionally bound to persist in conciliation and mediation even after hostilities had broken out.

The bare fact that internal neutrality had been institutionalized indicated that there must have been a long experience with it even before that date. This, in turn, would mean that the much-discussed international neutrality of Switzerland was only the one-eighth of the iceberg that shows above the water. Below the surface so carefully examined by writers on international relations there must be centuries of experience by the cantons with conciliation and mediation in their relations *with each other*. Might not the history of this experience, the author wondered, "speak to the condition" of the present contentious world of sovereign states more significantly than a mere recital of the steps in the growth of Swiss federalism?

Here seemed to be a direct challenge to the primacy accorded by many political scientists to the principle of collective security. As generally expounded, this concept involves the banding together of nations in military alliances to protect themselves against other nations or groups of nations. But the light thrown on Swiss political history by the existence of neutral cantons revealed that at least within the fraternity of the Confederation there must have been a decision as early as 1501 to counter the natural tendency toward the formation of rival groupings with an opposite approach: an attempt to ensure that the irruption of disputes would always be met with persistent, influential conciliation and mediation.

Judging by the end result – a highly developed democracy – Swiss peacemaking was of a character that avoided appeasement and tyranny, and its history should reveal signposts on the road to peace *with* freedom. By a world threatened with nuclear destruction and totalitarianism, any hints along this line should, it seemed to the author, be considered as nuggets of pure gold. He quickly decided to mine this rich vein.

In this small volume, the reader may miss an analysis of the justly-famed Swiss arbitration procedures. One reason for this omission is that in the author's view arbitration is the less difficult part of peacemaking. When disputants can agree in advance to accept an arbitral award, as they must in order for arbitration to start, then a large part of the difficulty is already solved. The real Gordian knots are the conflicts in which each disputant feels that it is defending a cause so vital to its security that it cannot agree in advance to accept an arbitral decision. This is the wide gateway through which a third world war could come upon the world, and this is the area covered by the processes of conciliation and mediation in Swiss political history. So, in the interests of brevity, this study was confined to that area. A

few authoritative works on Swiss arbitration are mentioned in reference 26.

Many tourists who spend a pleasant few weeks in Switzerland think of it as a clean, compact and not too important little country. Barely does the visitor get any idea of the complex combination of local autonomy and national unity which goes to make up the political federation of twenty-two very separate cantons in an efficient federal government. Some accuse the Swiss of making profits from other people's wars, while others content themselves with a laugh as they quote the Swiss newspaper man's defiant remark at the old League of Nations: "We're neutral against everybody!"

But in spite of unfriendly clichés about Switzerland, it must be recognized that Swiss political development has been unique. In the very crucible of European power politics this loose league of states – each guarding its autonomy with a fierce devotion – has grown into a strong, flexible and well-balanced federation, under democratic controls which in most respects are outstanding. Other successful federations such as the United States, Australia and Brazil, have had the advantage of relative isolation from the major theaters of great power conflict in their formative period. But Swiss territory, at the center of Europe, astride strategic mountain passes, has been coveted by powerful neighbors ever since the day in 1291 when the three original cantons, alarmed over Hapsburg encroachment, pledged mutual aid and set up their own local administration of justice. The bitterest conflicts of Europe – the religious wars of the sixteenth and seventeenth centuries – found Catholic cantons forming military alliances against Protestant cantons. Until 1798, each canton had its own army, currency and set of duties on trade. Neighboring monarchs used every trick of diplomacy and military strategy in attempts to drive a wedge between the cantons and so open the way to conquest.

The following passage by Gonzague de Reynold, written during World War II, shows what the long continued birth pangs of Switzerland must have felt like to leaders of vision in crucial epochs of the nation's development:<sup>3</sup>

"The history of Switzerland is a magnificent demonstration of human will. In order to form itself this people has had to struggle not only against powerful enemies and conquer them; not only against a hard natural environment – lacking raw materials and without access to the sea – which can at the most nourish the population three or four months of the year; but also and above all against itself. Composed of races that are different and even opposed, carrying in its flesh, like infectious germs, several of the most relentless antagonisms which have caused this war and make it continue so long and so cruelly, speaking four languages, not counting dialects; having undergone the fearful and exhausting fever of civil discords; having lost since the Reformation its religious unity, it includes all possible causes of division. And nevertheless, in spite of everything, it possesses an incontestable unity, and its history follows a logical development. This logic lies in the fact that the Swiss people has struggled without truce against it-self, opposing reason to passion, opposing the will to the instincts. It has often been mistaken, it has wandered and become lost, but it has always found itself.

"'Holland', a writer has said, 'is a victory of man over the sea: Switzerland is a victory of man over himself.'"

Originally the strands binding the Swiss cantons together were apparently no stronger than the ties binding many other parts of Europe, and the communities thus connected were washed by the same general waves of cultural and social change. Known for centuries only as The League of Upper Germany, the very slowly developing Swiss political tissue was composed of legal bonds which were not of uniform strength or extent. The first known pact united Uri, Schwytz and Unterwald in 1291, then a pact uniting these three with Lucerne was added, and later pacts were simply piled on top of the existing structure until in 1352 a total of eight cantons were joined in a varied assortment of treaties. Geographically, the original three cantons, located in the mountain fastnesses, formed the hard central core, while the newer cantons clung around the edges to the east, north and west. By 1513, membership had grown to thirteen, and it remained at this figure for nearly 300 years. Some cantons held positions decidedly inferior to that of the original founders, and various combinations of

cantons controlled subject territories.

French and Germanic cultures have been joined peacefully within the Confederation since 1481, although other parts of this cultural boundary have been marked by extreme bitterness and recurrent wars. After the Reformation and the Counter-Reformation had frozen religious loyalties into a "cold war" of bitter hatred, six Protestant cantons, containing the majority of the population, were usually outvoted in sessions of the Swiss Diet by seven Catholic cantons. Nevertheless the Confederation remained at peace while rival Protestant and Catholic forces ravaged the rest of Europe in the Thirty Years' War.

The Swiss have never been pacifists in the sense of absolute rejection of violence. In fact, whenever the cantons united in military action they constituted the strongest force in Central and Southern Europe during the late fifteenth century, and their campaigns took them into territory that is now part of Italy, France and Germany. But Nicholas von der Flüe, the ascetic hermit whose advice saved the Confederation from dissolution in 1481, warned against foreign conquests and military alliances. Within forty years – after serious military defeats – the Swiss turned toward the cautious defensive policy they have pursued ever since.

Understandably, the peace and prosperity which this policy brought to the cantons aroused the interest of neighboring peoples. The cities of Constance in southern Germany and Strasburg and Mulhausen in Alsace sought to join the Confederation in early centuries. The Arlberg valley of Austria requested admission after World War I and the Italian valley of Aosta after World War II, but agreement with the Confederation could not be reached.

In the pages that follow, the author has attempted to outline briefly the history of internal conciliation and mediation in the Swiss Confederation, rather than to present a comprehensive review of Swiss history or even to examine all aspects of that history that might interest students of world organization. It is his hope that many readers will be stimulated to delve more deeply into this complex but rewarding political study. Meanwhile, if he has succeeded in throwing some light on a significant chapter of man's perpetual struggle to combine unity and order with local autonomy and diversity, the author will feel amply rewarded for his efforts.

## 2 Origins

The faithful observance of obligations freely assumed, the maintenance of orderly processes, and the improvement of peacemaking techniques were at the core of the evolutionary liberation which created Switzerland. The pact of 1291, by which the three original states or cantons of Uri, Schwytz and Unterwald pledged each other mutual aid against all enemies, contained detailed provisions for replacing royal decrees with a homespun administration of justice. No judge was to be recognized unless he was a native of the valley where he was to hold court. Penalties for murder were prescribed, and those who offered food and shelter to a barn-burner were required to indemnify the victim. Furthermore, the "conspirators", as the Latin text calls them, agreed: "If any dissension should arise among the confederates, the wisest among them should, by whatever means seem expedient to them, intervene to settle the dispute, and the other confederates should take action against the party that rejects their decision."<sup>4</sup>

Rushed to signature within two weeks of the death of the Hapsburg Emperor of the Holy Roman Empire, the pact of 1291 was the culmination of many decades of discussion and planning by the sturdy peasants of the three mountain communities. Open defiance of the Hapsburgs by William Tell and other leaders had long stirred their desires for self-rule, and historians are led to believe that a previous pact – the text of which has been lost – was signed in 1273.

In any case, leaders of the three communities succeeded in achieving a *fait accompli* while the aristocratic world was preoccupied with the choice of the next Emperor. Their act, involving a tiny section of the vast Empire, went practically unnoticed by higher officialdom, and this was just the way the founders of what was to become Switzerland had planned it.

They had learned from the experiences of fathers and grandfathers that it was wise to attract as little attention as possible from the Habsburgs, and particularly to avoid conflicts among themselves which could cause their bailiffs to intervene.

Contrary to a widespread assumption that Switzerland was able to win its independence and neutrality only because the great powers did not care about these remote valleys, the fact is that the Alpine passes were recognized as important strategic routes ever since Hannibal's invasion of the Italian peninsula. A feat of road-building put the peasant community of Uri in the forefront of Swiss political development. The territory of Uri sweeps down from the heights of the Gothard Pass to the shores of the Lake of Lucerne (or, as the Swiss call it, the Lake of the Four Cantons). The southern arm of the lake is almost enclosed by the steep meadows and mountain shoulders of this canton. On the eastern shore the territory of Uri ends just north of the spot where William Tell is said to have leaped from a boat in order to escape Hapsburg officers.

Until the late twelfth or early thirteenth century the deep Schoellenen Gorge made the Gothard route impassable. But with the bridging of this obstacle, royal couriers, church dignitaries and wealthy merchants traveling from Central Europe to Italy were seen increasingly on the road through Uri, and local inhabitants prospered as guides and porters. Travelers brought news of the latest diplomatic and military events, and the people of Uri found ways of making their influence felt. In 1231 they purchased the Hapsburg rights over their valley, thereby winning a status of immediate subjection to the Holy Roman Empire, which meant freedom from the taxation and control of any intermediate ruler. In honor of the cattle which dominated the economic life of this valley, the canton's seal, by imperial grant of 1243, carries the head of a bull with a ring through its nose.

The importance of peacemaking was underlined for the peasants of Uri in the mid-thirteenth century when an implacable feud between the Izzeligen and Gruba families fired a wave of mounting violence. Rudolph III, the Hapsburg count, rendered a decision ending this feud in 1258. The Swiss historian Johannes Dierauer<sup>5</sup> emphasizes, however, that this action did not rest upon any regular jurisdiction then exercised by the Hapsburgs, but solely on the free invitation of the people of Uri, whose seal appears on the decision alongside that of the count.

The canton of Schwytz is credited with initiating the Pact of 1291, and its aggressive leadership of peasant liberation movements in subsequent centuries caused its name to be applied to the whole group of cantons. This community included about half of the northern shore of the Lake of the Four Cantons, and extended eastward roughly to the nearest mountains crests. In the century and a half following the Pact of 1291 this canton nearly doubled its area, mostly by helping peasants on its northern boundary to revolt, until this boundary reached the shore of the Lake of Zurich.

Here the political picture in the thirteenth century was more complicated than in Uri. Most of the land of Schwytz was in the hands of free peasants, but the Hapsburgs and the large monastery of Einsiedeln retained important feudal rights. Subjects of church and lay overlords had social and economic contacts with the free peasants, and this often led to restlessness and conflict.

Woodcutting rights in the forests were the subject of constant dispute between the monastery and the free peasants, and settlements were imposed from time to time by the decision of the Hapsburg rulers. When one of these, Count Rudolf II, quarreled with Emperor Frederick II of the Holy Roman Empire, the men of Schwytz saw their chance to eliminate Hapsburg rule by bringing themselves directly under the Empire. With an audacity which was to become typical of this canton's external policy, a delegation crossed the mountains to Italy in the dead of winter to offer its fealty to the Emperor at his court in Faenza. Although feudal rules prevented Frederick from granting Schwytz full, direct status under the Empire, he took the community under his "special protection" in 1240.

Unterwald, the third of the original cantons, includes almost the entire southern shore of the main body of the Lake of the Four Cantons, whence it climbs to the mountain barrier in the south. Geographically, a high, forested ridge known as the Kernwald divides the canton;

and politically, the number and extent of feudal domains made it harder for the peasants of this canton to unite than it was for their brothers in Uri and Schwytz.

The Benedictine monastery of Engelberg, with many neighboring peasants originally bound to its lands, played a significant role in political development. Toward the middle of the thirteenth century the peasants drew together with each other and with the men of Uri and Schwytz in supporting the Europe-wide struggle of the Ghibellines against the Guelph partisans of the Pope.

Ever since early days a separation has been marked between the two areas of the canton: Obwald (above the forest), and Nidwald (below the forest). The Pact of 1291 (still extant and ordinarily on public display in the town of Schwytz) bears the seal of Nidwald only, but the words "and the upper valley" are written in.

It is plain that communication by water had an important part in promoting the rapprochement between these three communities. The lake they shared offered easier transport than the mountain trails which constituted the only alternative direct route between the main towns of Uri and of Unterwald.

Following the guarantees given to Uri and Schwytz by an earlier Holy Roman Emperor, a Hapsburg king of Austria was chosen Emperor, thus thwarting the strategy of appealing from one master to the other. This king happened to be the same Rudolph III who had earlier been invited to mediate between Uri's feuding families. In his dual role of king and emperor he soon started to aggrandize his power as a Hapsburg and minimize his role in the valleys as Holy Roman Emperor. This trend, marked by a steady erosion of the rights which Uri and Schwytz thought they had confirmed in solemn agreements, forced peasant leaders to look to the future with apprehension. Patiently biding their time in the face of growing dissatisfaction and alarm, they cannily awaited the psychological moment shortly after the death of Rudolph III in 1291 to confront his successor with a *fait accompli*.

For more than two decades after the treaty was signed there was no military attempt to annul it, but raids by free Schwytz peasants on the lands of Einsiedeln and other incidents led the Hapsburg ruler in 1315 to send the flower of upper Germany's knighthood to subdue these rebellious subjects. Forewarned by a crude but effective intelligence system, the peasants ambushed and routed the impressive cavalcade in the battle of Morgarten, and representatives of the three cantons soon thereafter sat down at Brunnen to write an improved treaty of alliance containing this provision on the settlement of disputes:<sup>6</sup> "If any dispute or war should arise among the confederates, the noblest and wisest should come to settle and end the war and the dispute by friendly compromise or by law. And if one of the two sides rejects the decision, the remaining confederates should help the other side to a compromise or legal decision at the expense of the side which is disobedient."

The city of Lucerne, commanding the west arm of the Lake of the Four Cantons, controlled the Entlebuch valley flanking Unterwald on the west and considerable additional rural territory, extending almost to the Aar River on the north. Although the three cantons had guaranteed Lucerne free navigation on the lake in 1309, troops from the city fought against them at Morgarten. In 1330, however, anti-Hapsburg elements seized power and soon the city joined the peasant communities in the 1332 Pact of Lucerne.<sup>7</sup>

In view of the widespread antagonism between city and countryside the Europe of this age, the broadening of the three cantons' sacred brotherhood by the inclusion of Lucerne was a major conquest over parochial tendencies in the mountain communities. The Pact of 1332 repeated the mediation provisions of 1315, but in addition, Lucerne was obligated, whenever a dispute arose between two of the original cantons and the third, to help the third canton come to an understanding with the others, unless the two should direct the city in some other course. Thus the sagacious rustic diplomats sought to bar the city from taking advantage of conflicts among the three to augment its own power, and even to use the city as an antidote for their own dissensions.

The cities of Zurich, Bern and Basel, although not yet a part of the Confederation, helped shield the four cantons from the wrath of Austria in the year following signature of their pact. All three outside cities had treaties with Austria, but were also on good terms with the four

cantons. Three of the outstanding men of each city were chosen as mediators, and these nine – after long negotiations – secured the acceptance of two separate treaties, one between Austria and Lucerne and the other between Austria and the three original cantons. Friendly mediation was soon followed by formal alliance with the cantons in the cases of Bern and Zurich. Bern, home of the sternly domineering Zähringen nobles, controlled a rural empire larger than all three original cantons combined, stretching from the mountain barrier on the south well into French-speaking territory on the northwest. Partly as a measure of protection against democratic penetration of its own rural possessions, Bern signed its first treaty with the original three cantons in 1323, and was rewarded with their military assistance sixteen years later in the victory over the Hapsburgs at the battle of Laupen. Zurich, on the other hand, sought alliance with the Confederation following a democratic overturn. The territory of this important commercial city included nearly the entire shore of the Lake of Zurich and extended north to the Rhine river. Mayor Rudolph Brun, who upset the rule of a few noble families and brought the guilds and professions into greater political power, appealed to the free mountain communities when his regime was endangered by Austrian pressure. He requested a pact of only twenty years, but the lakeside cantons insisted on an "eternal alliance", which was signed in 1351.

The community of Zoug, whose crucial role in the political relations of the cantons will be described in the following chapter, was constrained to modest borders by its powerful neighbors-Zurich on the north and Schwyz on the south. It was compelled to join the Confederation on terms outlined in the Pact of 1352.

In the same year the original three cantons and Zurich signed a pact with Glarus, a rural mountain community just east of Schwyz. This pact assigned a part to every canton in case of a dispute involving Glarus. All those not directly involved were given the power to settle it, "by compromise or by law," (in present terminology, by mediation or by arbitration), and the parties were required to submit to the decision of the majority.<sup>8</sup>

This treaty marks a clear recognition that any dispute between cantons was a concern to all the rest of the cantons, even though they might not be directly involved in the dispute. Statesmen of the early Confederation considered that whereas the contending parties were interested in the sense of wanting to advance their own interests, all the rest of the cantons were interested in the sense of wanting to see the conflict settled.

Austrian military victories soon upset the Zurich pact of 1351 and the Zoug pact of 1352. Bernese troops were requisitioned by Austria for the struggle, under existing obligations, but Bern made every effort to reconcile the parties and to make the conditions of peace acceptable to the forest cantons.

Meanwhile there was continuing need for mediation among the three older cantons, usually called the forest cantons after this period in order to distinguish them from city members. A dispute between Lucerne and Uri in regard to toll charges on the Gothard road was settled in 1357 by the intervention of ambassadors from Zurich, Schwyz and Unterwald.<sup>9</sup>

The free peasants of Unterwald often set a disturbing example to the subjects of Bern's almost imperial power in the fourteenth century. When peasants of the Bernese Oberland revolted in 1371, Bern accused Unterwald of aiding them and war threatened. Four ambassadors from Zurich, Lucerne, Uri and Schwyz undertook mediation, and in Unterwald spoke before that traditional body of ancient Swiss democracy, the *landsgemeinde* or sovereign assembly of all citizens. Subsequently the ambassadors secured a peaceful settlement involving a hands-off policy in the Bernese Oberland.<sup>10</sup>

The same territory was again giving trouble in 1374. Unterwald was concerned, but the actual dispute was between the nearby Valais (not then in the Confederation) and Hasle (a troublesome district which formed part of Bern's Oberland). Again, the ambassadors of Zurich, Uri and Schwyz mediated between the parties to secure a settlement.<sup>11</sup>

Inter-cantonal mediation was applied several times to a recurring dispute in the very cradle of the Confederation. The two tiny communities of Weggis and Gersau, on the eastern shore of the Lake of the Four Cantons, had been taken into the original alliance of three by letters exchanged in 1358. But Lucerne purchased certain rights over the territories from Austria,

and asserted its authority. Gersau and Weggis obtained the support of Schwytz – usually ready to help the peasant cause wherever it could – and violence occurred. At a session of the Diet on May 23, 1395, war between Lucerne and Schwytz was avoided by the mediation of Uri, Unterwald and Zug. Today Weggis is in Lucerne territory and Gersau in that of Schwytz.

Living under the constant threat of Austrian attempts to reconquer its "rebellious subjects", the Swiss realized that conflicts among themselves would provide the ideal opportunity for aristocratic intervention. Unwilling to give up cantonal sovereignty in their dealings with each other, they turned to mediation as a voluntary means of maintaining internal peace and saving their freedoms.

Outside the Confederation, subjects of aristocratic rule often sought the mediation of one of the cantons as a protection for their liberties. Thus to the west Bern was designated as mediator in any disputes between the French-speaking burghers of Neuchatel and their ruler, Count Conrad, in a pact formulated and signed in 1406 during the absence of the Count.

### ***3 Peace in Process***

Confronting established authority with a sharp and growing challenge, the peasant liberation movement brought the Confederation to the verge of inter-cantonal warfare in 1404. The successful mediation of this situation demonstrated so clearly the importance of active mediation that within a few years a new insurgent peasant community was enlisted not as member but as peacemaker to the Confederation.

One of the major lines of social and political conflict in Central Europe during the fourteenth and fifteenth centuries was the division between town and country. In the League of Upper Germany, as the Swiss Confederation was then called, the rural cantons had little interest in trade beyond the purchase of certain staple supplies in the cities. The regular rounds of farm work plus the driving of their cattle to the high alps for the summer gave peasants a contented provincial outlook, whereas the cities were feeling the enthusiastic upsurge of the Renaissance. Traders from all Europe were buying and selling, coming and going in the Swiss cities, giving the inhabitants the knowledge of far-away places and the taste for power and territorial expansion.

Rural cantons still bore the stamp of the old Germanic social form known as the "allmend", which safeguarded the basic principles of local autonomy for each unit and equality among all members of the units. The cities of Zurich, Bern and Lucerne, on the other hand, were governed at this time by councils chosen from restricted groups of burghers, which in turn were often dominated by traditional oligarchies. These city councils were very nearly absolute rulers of surrounding rural populations. Bern, particularly, pushed its highly centralized control outward until it had a considerable rural empire. The growing economic and military power of the cities was regarded with apprehension by the three forest cantons.

Political techniques for helping neighboring peasants to win a larger measure of freedom were developed by those cantons at an early date. Such campaigns were not based solely on altruism, of course. Friendship with the subjects of neighboring aristocrats helped to prevent these rulers from mounting effective military campaigns against the cantons, and successful peasant revolts in neighboring territory offered individual political leaders in the cantons opportunities to enhance their political power. Thus from time to time one of the rural cantons extended its "landrecht" (or citizenship rights of free peasants) to neighboring populations still under urban or ecclesiastical domination.

Medieval life being a matter of general subjection to a lord except for certain enumerated rights, the addition of even one or two economic or political freedoms through the friendship of one of the rural cantons was an important gain for subjects of nearby rulers. As cities gained economic and military power on one hand, and their peasant subjects caught the liberation fever on the other, a kind of class conflict developed.

Peasant movements spread like wildfire in the years from 1402 to 1408. Discontent surged in Bern's Oberland, in Lucerne's Entlebuch valley, in the valleys on the southern slope of the Alps, and toward the east among the freedom-loving people of Appenzell. In the tiny canton of Zoug, north of Schwytz, this class conflict assumed menacing proportions in 1404. A former Hapsburg strong point blocking the direct road between Zurich and the forest cantons, Zoug was forcibly brought into the Confederation in 1352 under the pressure of military necessity.

An Austrian military victory soon nullified the Zoug treaty, but in 1365 Schwytz, in cooperation with the peasants of the rural communes or "gemeindes" of Zoug, seized the town, and thereafter for a number of years the "landamman" or chief of the canton was chosen by Schwytz. Under this energetic tutelage, the three gemeindes into which Zoug's country districts were organized soon achieved a recognized status higher than that of the rural territory associated with any other city canton.

In the growing power struggle between Schwytz and Zurich within the Confederation, Zurich naturally became the protector of aristocratic elements in the town of Zoug, and in 1383 this group appealed to its great commercial neighbor for help in making the gemeindes obedient. By 1404 the general peasant liberation movement had swung the pendulum the other way, and the Zoug gemeindes voted to take control of the seals, banners and archives of the canton. Acting under the restored Pact of 1352, however, the town immediately called on its five allies – Zurich, Lucerne, Uri, Schwytz and Unterwald – to reprove the gemeindes. Delegates from these cantons assembled in Zoug, and all except those of Schwytz approved the rebuke. The latter agreed to refer the question back to their own citizens to be assembled in a special landsgemeinde.

As the story is recounted by the prolific sixteenth-century Swiss historian, Aegidius Tschudi,<sup>12</sup> the delegates aroused widespread antagonism as they rode home through the country districts of Zoug, and the peasants determined to ask help from the neighboring rural canton. The men of Schwytz then joined in seizing the town by force on October 22. The four other allied cantons responded to this aggression by sending troops to besiege the invaders. Here was an inflammable situation – strong elements of law and justice on both sides, and determined groups of men who would as soon fight as not, facing each other across the ramparts of the town. The rural versus city element of the conflict gave a foretaste – in microcosm – of the struggle which was to shake the Confederation to its foundations 77 years later.

As the besieging army made preparations for a long stay, representatives of the Zoug country districts agreed to accept arbitration by the cantons in accordance with the Zoug pact of 1352. But the men of Schwytz, who had, after all, exercised some control over Zoug during the past 40 years, and who were conscious of their leadership in the peasant liberation campaign, refused to give in.

At this point three other communities entered the picture: Bern, which was not a signatory of the Zoug treaty, but was allied in the Pact of 1353 to Lucerne and the forest cantons; Solothurn, a neighbor and ally of Bern, but still not formally bound either to the forest cantons or to Zoug; and, finally, Glarus, allied in an inferior position with Zurich, Lucerne and the forest cantons, but not a party to the Zoug pact.<sup>13</sup>

This incident illustrates how the loss of impartiality by arbitrators can bring peacemaking procedures to a standstill, necessitating the intervention of a new middle group. The Pact of 1352 had foreseen the possibility of civil conflict within the canton of Zoug, and had set up definite procedures whereby the five other cantons were to settle disputes. When a majority of the five (Zurich, Lucerne, Uri and Unterwald, with Schwytz opposed) undertook to anticipate armed conflict by coming out in favor of one side of the dispute within Zoug, their usefulness as impartial arbitrators was impaired because the outer gemeindes quite understandably concluded that their intervention was intended to maintain the supremacy of the city of Zoug in status quo.

With the use of armed force by Schwytz and of the contrary force organized by the majority, the impartial position of the majority was completely destroyed, and war between the

cantons was avoided only by the creation of a new third or middle group capable of working for a settlement through conciliation and mediation, independently of the legally prescribed arbitration procedures.

Little is known of the actual technique employed by the mediators, but according to all available accounts they intervened on their own initiative and acted as a unit from the beginning. Tschudi relates that their ambassadors talked first to the confederate forces camped around the city, and then entered the fortifications to talk to the men of Schwytz. After another conference with the besiegers, the mediators finally persuaded the Schwytz forces to accept arbitration under the confederate pacts. It is not known whether any secret guarantees were given to Schwytz at this time in order to obtain its bloodless surrender, but certain it is that the arbitral award of November 17, 1404, granted for the first time to all burghers of the city *and* of the rural areas of Zoug equal electoral rights. In addition, after a short period in which each of the cantons named the Zoug landamman by turns, Zoug was permitted to choose its own chief.

To the east, the peasant movement was welcomed enthusiastically by the mountain people of Appenzell, who had long been chafing under the ecclesiastical rule of the Abbey of St. Gall, the famous Catholic center founded in the seventh century by an Irish monk. Schwytz extended its landrecht to the rebels, and followed this with military aid as well.

Following a smashing victory over Austrian and Abbey troops at the Stoss in 1405, the Appenzell peasants swept down from their heights to help free many towns of the upper Rhine from noble rule, and then carried their campaign as far as the Inn valley of Austria. The League Above the Lake, as the organization of these newly-freed towns and country districts was called, engaged in a veritable frenzy of liberation for several years, until even Schwytz was alienated by excesses. In 1408 an army of the Imperial cities, led by Constance, defeated the Appenzell forces and smashed the League Above the Lake.

In spite of the fact that Appenzell had led what might have become a rival eastern confederation, the eight cantons could not, without a gross violation of solidarity, abandon this insurgent community to renewed subjection by Austria and the Abbey of St. Gall. But the drafting of ally treaty of protection was bound to be a very delicate matter, since Appenzell lay at the intersection of the Schwytz and the Zurich spheres of influence. The Solution was found in all extension of the principle of impartiality which had already found such significant application in confederate practice.

The treaty signed by the confederates and Appenzell in 1411 neutralized Appenzell in regard to issues which might create dissension among the members of the Confederation, permitted it no vote in the Diet, and gave it a generally inferior position as an ally, not a canton. With the success of mediation in the Zoug affair before them, however, the drafters of the treaty went beyond passive neutrality to invite Appenzell to attempt active conciliation in the event of disputes between members. This active neutrality article of 1411 declares:<sup>14</sup>

"If the above-named towns and forest cantons should ever in the future become contentious and hostile to one another or to one particular city or canton – which God may ever prevent – we, the above-named people of Appenzell, must take no part whatever in the dispute nor be helpful or allied to either side, unless by sending our ambassadors we might unite the contestants with friendship, which we should certainly try to do, without reserve."

Soon the Confederation was able to gain territory through its traditional policy of aiding the Holy Roman Emperor whenever he was opposed by the Hapsburgs. In 1414 Emperor Sigismund placed Duke Frederick IV of Austria under the ban of the Empire, and encouraged the Swiss to seize the Aargau (between Lucerne and the Rhine), where Hapsburg territory had up until this time blocked communications between Bern and Zurich. When his quarrel with the Duke was patched up, it was too late for the Emperor to stop the virtually bloodless conquest, in which the Swiss were generally welcomed by the population. Nevertheless, inhabitants became mere subjects of the cantons rather than of the Duke, without benefit of a treaty of alliance as in the case of Appenzell.

Soon it was the cantons' turn again to find themselves at loggerheads. While Schwytz was becoming embroiled in the Zoug affair and was supporting the Appenzell liberation

movement, the men of Uri in 1403 had taken over the Italian valley of the Leventine on the southern slope of the Alps. In 1410 the valley of Ossola as well was being held by Uri and Unterwald. These southern subject territories were reached by crossing the upper Rhone valley known as the Valais. This territory was inhabited chiefly by French-speaking people and ruled by the Baron of Rarogne, an ally of Bern.

Here the conflict between Germanic and French cultures first assumed a significant role in confederate affairs. The needs of administration and trade between Uri and Unterwald and their subject territories to the south brought settlers from these cantons into the upper Valais. Soon these German-speaking settlers were demanding increased autonomy, and when they formally allied themselves with Uri, Unterwald and Lucerne in 1417, the conflict which broke out with the Baron threatened to bring about war between Bern, the Baron's ally, and the forest cantons. At this point the delegates of the cantons not involved – Zurich, Schwytz, Zoug and Glarus – intervened to try to settle the dispute. They succeeded in arranging a truce of three weeks, but then, despite peacemaking efforts described by Dierauer as "indefatigable", war broke out.

In 1420 the Valais struggle was mediated and arbitrated by the same four cantons, with the help of the Rhine city of Basel. Three years later Lucerne, Uri and Unterwald acted as friendly mediators between Bern and the Baron of Rarogne on one side, and the people of upper Valais on the other side, represented this time by the Bishop of Sion. This mediation was carried on with the help and advice of ambassadors from Zurich and from two cities on the borders of Bern's territory – Fribourg on the south and Solothurn on the north.

Although intervention of the relatively impartial cantons failed from time to time to stop local conflicts, it did succeed in preventing the spread of hostilities into a war between Bern on one side and the forest cantons on the other side, which in turn would have required the other members of the Confederation to take sides in a general civil war.

Zurich, which had taken a leading part in mediation of the Valais conflict, also mediated a dispute between Lucerne and Zoug in 1425.

## ***4 Neutrality on Trial***

The city-country conflict and the collision of expanding Zurich and Schwytz spheres of influence to the east raised tension to the point of hostile troop mobilizations by the two cantons in 1437. Three years of laborious peacemaking by the other cantons and by outside communities followed, but these efforts failed to prevent the outbreak in November, 1440, of hostilities between Zurich and the other seven cantons (Schwytz, Uri, Unterwald, Lucerne, Glarus, Zoug and Bern).

Schwytz was actually the first to declare war and use force, but this was done in desperation against Zurich's economic boycott, which was spreading starvation in the rural canton. Zurich had flouted the 1437 decision of an arbitration board set up by the confederate Diet, but was nevertheless surprised when all seven cantons, abandoning their impartiality after many patient efforts, declared war.

After a five weeks campaign a peace generally favorable to Schwytz was signed. This treaty went beyond the confirming of territorial changes sanctioned in the arbitral award. It also validated a small Schwytz territorial claim based solely on military conquest. Spurred by the humiliating terms of the treaty, the opposition party in Zurich gained power and openly allied Zurich with Austria, the cantons' "hereditary enemy".

Bern and Solothurn, a neighboring city not yet a member of the Confederation, initiated negotiations in April, 1443, with the object of finding a basis of permanent settlement, but hostilities soon broke out again. After more victories by the seven cantons, a truce of eight months was negotiated, thanks chiefly to the mediation of the Bishop of Constance.<sup>15</sup>

As a close ally of the Confederation, and as one might say its hired peacemaker, Appenzell was forced to make some extremely difficult political decisions on its policy toward the conflict. A declaration of war on Zurich seemed likely when Zurich openly accepted the

support of Austria in 1442. Ital Reding, the astute landamman of Schwytz, made an eloquent appeal before the Appenzell landsgemeinde in March, 1443, urging that Zurich's Austrian alliance, together with its many refusals of federal arbitration procedure, placed it beyond the scope of the 1411 pact pledging Appenzell to neutrality. But neither his tempting offers of equal confederate status nor a veiled threat sufficed to move the landsgemeinde to a declaration of war.

Walter Schläpfer, in his review of Appenzell neutrality,<sup>16</sup> points out that Austria had tried many times to bring Appenzell to give up its pact with the Confederation, and surmises that this influenced the Appenzell people all the more to cling to it as the only security for their freedoms.

The famous Diet of Mediation gathered in March, 1444, at Baden. The chief princes of Central Europe, fearful because of an increasing popular sympathy among their own subjects for the confederate cause, sent delegates to this Diet, and many of the free cities of Germany, opposed to any increase in Hapsburg power, were also represented. The Bishop of Constance, who brought about the meeting and the Bishop of Basel came personally to Baden. Ital Reding of Schwytz, the Mayor of Zurich, and other prominent personalities of both sides took part in the negotiations.

But the hardships of war had embittered the people of Zurich rather than inclining it to peace, and the powerful Austrian party gained ascendancy. When the Baden peace proposals came before the Zurich Council, crowds broke into the meeting and brought about the imprisonment of five council members who favored the proposals. (Subsequently the council rejected the proposals.) Members of the peace party were given a summary trial and two of them were executed along with their leader, Hugo Meiss.

When hostilities recommenced on April 23, 1444, Appenzell, upon the oath of its delegates that Zurich was no longer to be considered a member of the Confederation, joined the struggle. Bern's ally Solothurn (like Appenzell, not yet belonging to the Confederation) also dropped mediation to enter the war at this time.

At length Austria was able to persuade Charles VII of France to attack the Swiss simultaneously on the west. But the king's son, heading the French forces, was so impressed by Swiss bravery in the battle of St. Jacques on the Birs (August 26, 1444) that he went no further with his invasion. Following the Swiss victory over Zurich and Austrian forces at Ragatz in March, 1446, one of the foremost princes of Europe, 25-year-old Elector Louis of the Palatinate, aided by many other prominent mediators, succeeded in negotiating the June 12 armistice of Constance, which brought a formal end to hostilities and established procedures for settling the complex set of questions involving the seven cantons, Zurich and Austria.

Each side made concessions in the armistice: Austria consented to weaken its bargaining position by agreeing to negotiate separately with the cantons, leaving Zurich to do the same. Zurich submitted to arbitration of the charge that it had violated the pact of 1351, and the cantons – although they held the military advantage with their troops occupying most of Zurich's rural territory – not only granted Zurich two members of the arbitration board to match their two as provided in the pact, but even agreed to go beyond the letter of the agreement to permit the fifth member to be chosen outside the Confederation.

One part of the arbitration was quickly completed, but there was a two-year stalemate over the more difficult case. This was finally settled when the cantons made two further concessions:

(1) Although the fifth man was to be a resident of the cantons, he was to be selected by a friendly town across the Rhine in Swabia.

(2) The cantons agreed in advance to renounce any financial indemnity from Zurich because of its violation of the 1351 pact, and on the other hand to pay any indemnity that the arbitration might award to Zurich. It was not until July 13, 1450, that the final arbitral decision brought the dispute to a close.

The life-and-death struggle of the seven cantons against Zurich, Austria and France understandably stimulated some fundamental rethinking of the Appenzell active neutrality

clause. There was a strong feeling that if Appenzell had not delayed its help so long the war might have been shortened and lives saved. Schwytz led the move for revision.

It is easy to realize why the cantons, after a long, hard war in which even the loosely-allied and usually neutral Basel took up arms for their cause, would want to eliminate provisions cutting them off from aid when needed. This is especially understandable in view of their recent experience with Austrian influence in Zurich. This influence gave the Zurich war a character quite different from that of a purely internal conflict. The aristocratic cause stood to gain by dissension within the Confederation, and therefore there was a constant pressure on Zurich to disregard and to flout all measures of peaceful accommodation. Circumstances reduced the efficacy of mediation to a low level.

In view of the sacrifices which had been made, the temptation must have been great to throw out neutrality completely; it is all the more noteworthy that the element of active conciliation was nevertheless retained in the new Appenzell pact of 1452, which provided that "we of Appenzell must seek, through the ambassadors whom we are to send, to bring about a settlement by friendship; should that fail we should undertake, on request of our above-mentioned confederates, whatever the majority of them decide, without any reservations or objections." This relationship to the Confederation came to be known as "half-neutrality" and was also adopted in the 1454 treaty with the town of St. Gall; in fact, the wording is identical.<sup>17</sup>

Other pacts signed at this time, covering northern allies of the Confederation members, retained the unconditional neutrality feature. This was the case in the pact with the friendly Rhine city of Schaffhausen, which previously had mediated frequently in disputes involving Zurich. This city was the only sponsor of the Schaffhausen pact when it first came up in the Diet. Austrian pressure on the Rhine city soon compelled the Confederation to send a military garrison for its protection, and later to conclude the treaty of 1454,<sup>18</sup> the neutrality article of which was almost identical with that of the Appenzell pact of 1411. It obligated Schaffhausen to an unconditional and continuing neutrality or "sittsitzen", with the suggestion that it should continue its efforts to "re-unite the confederates in friendship", even after the outbreak of hostilities. But Schaffhausen was not accepted as a full member of the Confederation at this time.

Apparently the full neutrality clause fitted in better with the needs and desires of Schaffhausen – strategically subject to Zurich military power as it was – than did a half-neutrality clause. A tripartite pact<sup>19</sup> of about the same time between Zurich, Schaffhausen and the town of Stein, a short distance upstream on the Rhine, put Stein under precisely the same obligation of mediation in regard to Zurich and Schaffhausen as that which Schaffhausen assumed in regard to possible conflicts between the cantons. Thus in one pact Schaffhausen was a principal, feeling the effect of unceasing mediation and conciliation by the smaller town of Stein in case of possible disputes with Zurich, and in the other pact Schaffhausen itself assumed the obligation to persevere in conciliation to settle disputes between units of the wider Confederation.

Externally the cantons were at war with Austria in 1461, and the defense of freedom again involved them in hostilities to the northward when Austria and the Rhenish nobles suppressed the burghers' liberties in Mulhausen, which had allied itself with Bern and Solothurn. Forces of the entire Confederation were ultimately engaged, and they swept the army of nobles out of the border area, while the powerful city of Bern remained neutral. Bern wished to go on to conquer the Black Forest, but was restrained by the opposition of the other cantons. Zurich, wary of Bern's power, prevented the conquest of the town of Waldshut, on the right bank of the Rhine; and peace was signed in August 1468.

The cantons united to inflict a remarkable series of defeats on Europe's most powerful warrior prince of the epoch, Charles the Bold of Burgundy, in 1475-7. At Morat, Grandson and Nancy, the Swiss, fighting in defense of their homeland, established their reputation as the greatest military combination in the Europe of that day. Two cities not yet members of the Confederation gave notable help-Solothurn and Fribourg.

On the other hand a confederate army trying to hold Bellinzona and the Tessin south of the

Alps, in an action which could not be called wholly defensive, was forced to retreat in December, 1478, partly because of dissension based on the growing class bitterness between city and country cantons.

At this time the cantons had won de facto but not de jure freedom from Austrian rule. However, they still considered themselves part of the Holy Roman Empire. There was hardly enough cohesiveness in their relationship to permit the use of the term Confederation. The communities were bound together not by one over-all constitution but rather by a patchwork of treaties in which the eight cantons had widely varying privileges and duties. The three original cantons, Schwytz, Uri and Unterwald, had the right to conclude separate alliances and to declare war without approval of the others. Zurich and Zoug were permitted to sign pacts with other cities and powers, but under the reservation that pacts with the cantons were to take precedence over all others. Lucerne and Glarus were not authorized to make pacts without the approval in the first case of the three forest cantons, and in the second case of the three forest cantons plus Zurich.

Bern was a power unto itself. Though bound to the forest cantons, it was at first not a party to the major pacts with Lucerne, Zurich, Zoug or Glarus. The first pact in which it was included with all the others was the Covenant of Sempach of 1393, which attempted to set up some rules for warfare and establish minimum standards of military discipline.

Although the major pacts were first and foremost agreements to provide mutual military assistance in case of need, nevertheless these obligations were limited by the phrasing of each particular pact in the case of each particular canton.

Procedures of military cooperation among the various cantonal forces concerned were of course evolved during the Zurich War and the war against Charles the Bold, but even in the light of these military crises, no treaty provisions for an overall military command were set up. During the height of the cantons' prowess, cooperation at the military level was a matter of temporary agreement. Moreover, confederate ties often acted as a restraint upon belligerent members. Thus Bern, which previously had felt itself powerful enough to go its own way, was on February 27, 1475, dissuaded by the confederate Diet from declaring war on Savoy. Uri was at the same time warned not to make war on Milan.

When it is realized that Bern was already formally at war with Charles the Bold on that date, but that the decisive battles of the war were to come on March 2, 1476, at Grandson, and June 22 of the same year at Morat, it is easy to see how fortunate it was for the Swiss that the success of the Diet's view prevented distractions and husbanded the strength of the members.

Fighting for hire was the custom in Europe at this time, and Swiss mercenaries – particularly those from the rugged forest cantons – came to command the highest salaries in all of Europe. Mercenary service provided an outlet for "surplus" manpower without involving the whole community in war, but the negotiations for "capitulations" providing for such service were often corrupt and cantonal officials winked at unauthorized recruiting. As long as leaders of the cantons continued to receive pensions from foreign monarchs, it was difficult for them to be too severe with young peasants thirsting for "adventure" and accepting mercenary service with those same monarchs.

## ***5 Unity Through Conciliation***

The early Swiss Confederation so exemplified the peasant liberation movement that fearful and wrathful aristocrats used the adjective "Swiss" as a term of derogation. Because of the obstinate refusal of the people to develop a unified state, other more friendly observers repeated the saying that "Switzerland is governed by the anarchy of men and the omnipotence of God."

As the Confederation gained city members, opposition to the peasant liberation movement increased. The class conflict erupting in outside kingdoms and duchies, and often brutally suppressed, showed itself in the "League of Upper Germany" by a hardening opposition

between the city cantons on one side and the rural cantons on the other.

The Entlebuch valley of the canton of Lucerne saw the collision of rural and city interests in a way which typified the larger conflict in the Confederation. In 1382 the discontented peasants of this valley had forged close relations with the free peasants of Obwald, the upper district of Unterwald. When the Austrian agent imposed severe penalties, the city of Lucerne stepped in to take advantage of the unrest by granting the rights of citizenship to all inhabitants of the Entlebuch. The city went through an internal crisis in 1385, when the bourgeois element defeated the aristocratic party, and in the following year Lucerne occupied the valley with the help of the forest cantons.<sup>20</sup>

But with the rise of privilege during the following century, the democratic character of the Lucerne administration had faded out, and the Entlebuch in 1476 was again welcoming the support of the neighboring free peasants of Obwald.

Other grievances developed between city and country. Booty beyond the dreams of most of the mountain folk had recently been captured in the victory over Charles the Bold, and this evoked greed and contentiousness. Unpaid past obligations on the part of the cities, and disagreements over the division of the booty gave rise to insistent claims by the rural cantons. When orderly processes of settlement bogged down, the returned warriors soon took confederate law into their own hands. From the forest cantons, armed bands of peasants set out in what came to be called the "Tolles Leben" or "Mad Life". Serious concerns were lost in the appetite for pillage and brigandage. Gathering floaters and irresponsible elements as they went, the veterans carried their depredations as far as Geneva. The extortions of the Tolles Leben did a great deal to embitter relations between city and rural cantons, and to lay the basis for later counter-measures.

Zoug, always a good barometer of city-country relations, again needed confederate attention in December, 1476, six months after the Swiss victory over Charles the Bold. In a dispute between Zoug and its partially autonomous rural areas, Zurich, Lucerne, Uri and Nidwald (the lower half of Unterwald) intervened as mediators. After many different approaches in an attempt to reach a friendly compromise, the confederate ambassadors made an arbitral decision on January 4, 1477, at the request of both sides.

Events to the west were also pointing up the city-country issue. In January of 1477, Fribourg, southern neighbor and ally of Bern, was freed of the control of Savoy. The question was immediately posed whether it would join the Confederation, and if so, whether it would help to overwhelm the voices of the rural cantons in the Diet. Segesser<sup>21</sup> reproduces a project for a treaty between seven of the cantons and Fribourg, dated January 29<sup>th</sup>, 1477. One of its provisions is interesting from the point of view of mediation of intercantonal disputes, since it carries out the idea of a peacemaking obligation on the part of each signatory, as in the Glarus pact of 1352. The proposed Fribourg pact provided that in case of a conflict between any of the seven cantons and Fribourg, the other cantons should, with loyalty and perseverance, try to bring such conflict to a friendly compromise or a legal settlement, "as was the custom in the confederacy from ancient times".

Meanwhile Uri, Schwytz, Unterwald, Zoug and Glarus were supporting one candidate for the archbishopric of Constance – a post with great political significance for the Confederation – and the cities (Zurich, Lucerne and Bern) were supporting another. The rural cantons' candidate – Otto von Sonnenberg – was elected, but his installation was opposed by the cities. On January 12, 1477, the country cantons signed a pact with Sonnenberg, and five months later the cities replied with a treaty of separate alliance and common citizenship, extended to include Solothurn and Fribourg.

Among the cities Zurich took a passive role in the negotiations. Memories of its alliances with Austria in the exhausting war of 35 years earlier were still bitter, and therefore it managed to stifle its resentment over loss of a small piece of territory to Schwytz in the settlement which ended that conflict. The cities' alliance caused great antagonism in the rural cantons, whose representatives were quick to point out quite correctly that Lucerne was specifically bound by her pact of 1332 to make no outside alliance except with the approval of all three forest cantons.

Meanwhile independence agitation was reaching a climax in Lucerne's Entlebuch valley. Peter Almstalden, a captain in the War of Burgundy and tavern-keeper at Schumpfheim, became the leader of the movement and entered into relations with agents from Obwald. Following the discovery of a revolutionary plot, Almstalden was arrested and executed in February, 1478, by Lucerne. He became the martyr of the rural cantons, and since Lucerne was at the same time apparently threatening the forest cantons by remaining in the cities' alliance, feeling ran high. It was freely predicted that just as in the case of the unfortunate alliance of Zurich with Austria earlier in the century, Lucerne's alliance would lead to war unless that city voluntarily withdrew from the league of cities or agreed to submit to confederate legal procedures. Tactfully, the Diet of April 8 omitted Lucerne from delegations which were sent to landsgemeindes in all the rural cantons to explain the cities' pact.

The Diet launched mediation procedures on July 8, with the proposal that from each side three outstanding men be chosen to discuss the matter and bring the result to the next Diet meeting, but no agreement was forthcoming. On August 18, delegates of the cities met and drafted a proposed pact containing extremely rigid and severe prohibitions of any gatherings which might result in disorders or disobedience of constituted authorities. Cities had not forgotten the "Mad Life" campaigns of armed peasants, and sought a means of preserving stricter law and order in the Confederation. Some historians even give the impression, according to Segesser, that the control of peasant freedom movements was the major objective of the cities in the negotiations which ended at the Diet of Stans.

The rivalry between city and country cantons centered upon the specific issue of whether the cities were to be required to give up their separate alliance, and even more specifically on the question whether Lucerne should not be required to give up its membership in the alliance because of the prohibition in its pact of 1332 with the three forest cantons. Accordingly, the latter launched legal proceedings against Lucerne under the pact.

Dissension was subordinated for a time during 1478 to the need for common military action to defend Bellinzona, the cantons' subject territory on the Italian side of the Alps, but quarrels again took precedence and forced a retreat from Bellinzona in December of that year. Bern sounded an ominous note by signing, in April 1480, a new treaty with Fribourg stating that it should take precedence over all other treaties, in spite of the declaration in Bern's pact of 1353 with the Confederation that *that* treaty should take precedence over all future agreements.

Sharpening of the issues had left no room for true neutrality among the eight cantons, but two of them which were relatively uncommitted attempted to perform the traditional functions of conciliation and mediation. Zoug, as we have seen, had achieved a balance of urban and rural power as a result of confederate conciliation, mediation and arbitration in the crises of 1404 and 1476. Glarus, though overwhelmingly rural, was restive under the diplomatic and juridical domination of its powerful neighbor Schwytz, and welcomed a chance to pursue an independent line in confederate affairs. In December 1480, these two cantons urged Lucerne to withdraw from the separate alliance of cities, but the suggestion was rejected.

Zoug and Glarus followed up this rather partial move by sending an embassy to Bern in January, 1481, to request the aid of that powerful city in mediating the dispute. In spite of its energetic expansionism Bern had joined Glarus and Solothurn in mediation of the Zoug dispute of 1404, and had been first among the cantons to lean toward peace with Zurich in 1446.

With Glarus an entirely rural canton, Zoug a mixed one, and Bern the strongest military power among the cities, the tri-partite mediation proposed could hardly have favored the rural cantons unjustly. But the Bern council emphatically rejected the overture, declaring that it knew no better way for Zoug and Glarus to promote peace than for them to persuade the three forest cantons to let Lucerne alone.

Feeling ran so high that it was impossible to agree even on the basis to be used for arbitration under the pacts. Uri, Schwytz and Unterwald claimed that the dispute affected each one of them separately, that each should therefore be represented on the board of arbitration by five men, and that Lucerne should have five men. Lucerne, quite naturally,

wanted to avoid being in a minority position of five to fifteen; so it claimed that the matter was a dispute between it on one side and the three forest cantons together on the other side, and that each side should be represented by five men.

Two days after the separate meeting of the cities, Solothurn and Fribourg offered before a meeting of the full Diet in Stans, to do all they could to help settle the conflict. Since their own pact with the three city cantons of the Confederation was precisely the issue of the dispute, however, their offer was not taken in good part by the rural cantons, and they then pledged full support to Lucerne.

The impasse seemed complete, but the cantons were summoned to another meeting April 8, and urged to send men who had participated in previous meetings. Meanwhile the cantons not directly concerned were to do their utmost to settle preliminary questions. Results of their efforts were placed before the meeting, postponed to April 11, by the ambassadors of Zurich, Bern, Zoug, and Glarus. Their proposal for launching negotiations under the pacts recognized equality of representation between Lucerne on the one side, and the three forest cantons together on the other side. This "modus operandi" was in the form of a full treaty, intended to remain in force until a final settlement of all points was reached by compromise or by arbitration. By a pacifying "tour de force" the treaty was put into effect immediately, without the usual wait for ratification by *landsgemeindes* in the forest cantons and the council of burghers in Lucerne.

Accompanying this treaty was a dateless draft with only the title, "Proceedings at Lucerne 1481",<sup>22</sup> starting out as a mere extension of the 1393 Covenant of Sempach, but containing many provisions found in the Pact of Stans as agreed upon later. Provisions on the punishment of individual breakers of the peace and inter-cantonal cooperation in the suppression of uprisings were similar to corresponding sections of the final Pact of Stans.

Provisions for the division of booty from the War of Burgundy afforded an ingenious solution to bitter disputes among the cantons. The smaller cantons wanted the booty divided equally, while the more populous units wanted it divided in proportion to the number of troops furnished by each canton. The solution was to divide feudal rights over land and buildings equally among the cantons and to divide movable booty in proportion to the number of soldiers provided.

But the major contribution of this draft was its truly breathtaking proposal that the chief problem – the urban pact with the outside cities of Fribourg and Solothurn – be solved by bringing those cities directly into *full membership in the Confederation*.

The audacity of this suggestion is difficult for an observer of the compact present-day Switzerland to grasp. The reader must recall that the key question of the dispute was the alliance of the three cities already members of the Confederation with the outsiders, Solothurn and Fribourg, which threatened dangerously to enhance urban influence in confederate affairs. The suspicion and anger already focused on these two cantons would ordinarily have made their admission into the fraternity of the Confederation a political impossibility. Furthermore, the Confederation so far had been a fraternity of German-speaking peoples, but half of Fribourg was (and is) French-speaking. With intrigue and treachery all about them, these peoples could agree to admit a canton half of which spoke a foreign tongue only by the most courageous application of creative political imagination.

In both of the difficult aspects of the proposed settlement, it was from the so-called "primitive" cantons (Uri, Schwytz and Unterwald) that the major effort of long-range vision – the measuring of constructive future potentialities against immediate political dangers – was required. Mediation is hardly an adequate term to characterize the role at this point of those cantons which were not parties to the legal dispute and which apparently issued this idealistic call for a new understanding. Conscious political synthesis and creation more nearly describe it.

Attempts at compromise have already been related; delegates also labored for five days toward the last of July to approach a decision through arbitration. These efforts were not successful, and further meetings were set: a particular meeting for the cities for August, and another meeting for all eight cantons – where arbitration was to be pushed again – for

September. As meetings grew more frequent and tenser, it became the general custom to hold arbitration meetings in Stans, the capital of Nidwald, and mediation or compromise meetings in Zoug.

The cities submitted their final compromise proposal to a meeting in Zoug on November 4; simultaneously they published the measures taken for mobilization of troops. Segesser calls it, without exaggeration, an ultimatum. The rural cantons rejected the proposal, and the way of compromise appeared to offer no more hope. Still willing to try the other approach, however, the delegates set an arbitration day for November 25 at Stans.

War might well have broken out before this stage had it not been for the pacific counsel of the man who is known to all Swiss school children as the saviour of their country, and was finally declared to be a saint by the Catholic Church in 1947.

Nicholas von der Flüe, member of a large, well-to-do family in the tiny village of Sachseln in Obwald, married the daughter of a prosperous peasant in 1447. Three years later he was among 699 Swiss who answered the call of the free burghers of Nuremburg, Germany, for protection against the oppression of the Hohenzollerns. During this time he had ample opportunity to observe the life of military camps. Although comrades said that he always tried to minimize bloodshed, he was later reported to have been put in charge of a brigade.<sup>23</sup>

Returning to his home in Obwald, von der Flüe won the respect of neighbors in village and field by his sober, public spirited life, which included the courage to defend the rights of the poor against the most powerful. His wife bore him five sons and five daughters and some of his descendants are known today in Switzerland. Deeply religious by nature, he became a thorn in the flesh of the church hierarchy because of his willingness to defend his neighbors against the unscrupulous practices of some of the clergy of that time. The people elected him judge of the cantonal tribunal, and accounts indicate that he could easily have been landamman or head of the entire canton had he so desired.

After a great deal of meditation and discussion with his family, which was economically self-sufficient without him, he said a permanent farewell in 1467, and set out to seek the inner life of the spirit. After some wandering, he returned to his native canton and sought refuge at the Ranft above Sarnen, where friends helped him to build a hut. Aside from berries, roots and other wild plants, he ate only the monthly communion bread, according to reports which were fully tested by the antagonism of the Church. The hierarchy, intensely alarmed by the affair, sent priests with steaming plates of luscious food to tempt him, but all in vain.

Although isolated from the everyday concerns of his neighbors, Bruder Klaus (Brother Nicholas), as he was known to them, retained an intense interest in raising the level of political life in his canton and in the Confederation. His fame ultimately spread throughout Central Europe. Princes and other political leaders often called upon him for advice.

He attacked the corruption and love of luxury which followed the Swiss victory over Charles the Bold, as well as the anarchical excesses of the Mad Life. During the city-country crisis of 1477-81, his advice was frequently sought by the Council of Lucerne and by the leaders of the other cantons.

Without his reinforcement of the impartial point of view it is difficult to imagine how, in view of the sharp city-country division of opinion, the cantons which were less closely involved in the dispute could have carried on the mediation which proved so vital to the future of Switzerland.

Arbitration procedure became stalled in the Diet meeting starting November 25 at Stans and a sudden shift to mediation and compromise was made. Negotiations "in Minne" (literally "in love"; practically speaking "by compromise") finally brought out of this meeting a nearly complete draft of the Pact of Stans as later approved.

The record does not show what decision, if any, was given in the arbitration proceedings of November 25, or the precise reasons for their failure, but the compromise proposal which finally came out of the session shows remarkable similarities to that produced by the mediating cantons on April 11. It provided for annulment of the cities' alliance, the acceptance of Solothurn and Fribourg into the Confederation with inferior status, the establishment of strict prohibitions against meetings not approved by cantonal authorities,

provisions for mutual aid by the authorities in cases of revolt, and a new formula for the division of war booty.

The draft of November 25 was generally considered the last word before war. By the time the final session of Stans assembled on December 18, most cantons, including Bern and Solothurn, had ratified it. But Fribourg, one of the chief actors in the drama, for some reason had not done so. The draft was a bitter pill to opinion in the forest cantons, with its restrictions on the right of assembly and its admission of the two new cities, even though it was understood that these two cities would observe neutrality in disputes among the eight old cantons. The landsgemeindes approved the draft only on condition that an additional restriction be placed upon Fribourg and Solothurn: namely, that when either of these cities was at war they should be required to sign an armistice or conclude a definitive peace whenever a majority of the eight old cantons felt it advisable for them to do so.<sup>24</sup>

This was an entirely new condition, and it is easy to imagine the rage which it must have caused when stated to the delegates of the cities. Words became more and bitterer, until on the night of December 21, the meeting broke up, the delegates making preparations to leave in the morning to help prepare their cantons for war. At this point the parish priest of Kerns, not far from Bruder Klaus' hut, decided to make one last try. As a native of Lucerne, but a resident of Obwald, he could understand something of both urban and rural points of view. During the night he walked the nine miles or so to the hermit's hut, conferred with him, and on his return to Stans in the morning, rushed from tavern to tavern calling the delegates back in session to hear the advice of the hermit. The power of his word helped the delegates subordinate narrow cantonal pride to the peace and order of the entire Confederation, and to the vision of what it was to become. The conditions demanded by the people of the forest cantons were accepted.

The ambassador from Solothurn took a leading part in the final agreement, although his council had ratified only the November 25 draft. Fribourg had not sent full powers with its delegate, but when all others had agreed, it was assumed that group pressure would be sufficient to bring that city around. Just to make sure, the influential Bern delegation was requested to appear before the Fribourg authorities on its way home. It took over a year for Bern to come to a full agreement with Fribourg on the new pact, but the people did not wait to celebrate peace.

The peal of church bells went out in spreading circles throughout the countryside that December 22 in a fitting prelude to Christmas Day. Small wonder that the Swiss regarded Bruder Klaus as the saviour of their country and rarely alluded to the rather prosaic institutions of mediation and conciliation, which were taken for granted at that time.

## ***6 Preventive Peacemaking***

The golden age of Swiss conciliation, mediation and arbitration in the late fifteenth century led to establishment of that unique institution of the Confederation: the neutral cantons. Therefore, it has seemed worth while to take a closer look than in previous chapters at the two decades of inter-cantonal peacemaking preceding this memorable development. This has been accomplished through a detailed examination of the proceedings of the confederate Diet from the signing of the Pact of Stans in 1481 to the outbreak of the Swabian War in 1499, when most disputes between the cantons were adjourned.

The summary of this examination throws an interesting light on the confederate politics of the period, but first a few paragraphs of definition covering the various methods of peacemaking are appropriate. Procedures for settling conflicts among the Swiss cantons through the action of third parties do not fall easily into hard and fast categories. The Swiss concentrated on arriving at a settlement, not on cataloguing differences of method. Usteri<sup>25</sup> differentiates between mediation and arbitration, and points out that the two lines of action were very intimately connected. In many disputes (as in the negotiations leading to the Pact of Stans) efforts to reach agreement followed first one method and then the other.

In arbitration the arbitrators lay down the terms of settlement according to existing agreements and juridical precedents. This study does not include an analysis of the justly famous Swiss arbitration procedures because that subject has been treated fully in other works.<sup>26</sup> In mediation, the impartial elements attempt to reach a settlement by finding common ground between the disputants and building upon it. A third category is conceivable – that of conciliation, an even freer and potentially more creative form of procedure than mediation. Conciliation may be described as the freeing of the impartial elements not only from existing agreements and precedents, but also to some extent from the specific demands of the parties in dispute; so that proposals involving entirely new syntheses may be elaborated, taking account at the same time of the basic needs of each side.

Usteri points to another form of procedure lying between arbitration and mediation, the so-called "Minnespruch" or friendly decision. In this proceeding, the impartial elements were free to promote compromise as well as to apply rigid arbitral precedent before rendering a decision which both sides were bound in advance to accept.

All types of procedure except simple arbitration that did not involve mediation are included in the tabulation which will be found in the Appendix. An examination of this listing will give the reader a revealing perspective on the place of the Swiss cantons in the political life of Europe at this time. The cases, many of which are described briefly, show the importance of Swiss peacemaking to neighbors and allies of the Confederation.

In 11 out of the 40 cases listed, the Swiss Diet or particular members thereof acted as peacemakers in disputes between communities which were not members of the Confederation. Another seven cases involved disputes between members and outside communities. Of the balance, nine involved disputes between cantons, five involved disputes within cantons or within neighboring communities, and eight involved attempts to promote the coordination of the confederate or foreign policies of the cantons.

This tabulation includes only those peacemaking efforts in which the Diet took an active part. For instance, one of these was a mediation by the Diet in 1482 of a dispute between factions within the powerful neighboring city of Basel, not yet at that time a member of the Confederation. But Basel itself had already been active for a century or more as a mediator on its own account. It had been a peacemaker in disputes between the cantons. Therefore, a full presentation of the peacemaking activities of this period touching the Swiss cantons and their neighbors would call for a more comprehensive study than has here been attempted, a study which would include cases in which Basel, Strasbourg, Mulhausen, Schaffhausen, Constance and other neighboring cities were the active mediators rather than parties in dispute.

During the Swabian War – the last major attempt by Austria to reconquer its Swiss territories – the rich trading city of Basel remained neutral, although Austria put strong pressure on it to give military assistance under existing pacts. Basel also provided the neutral ground for the signing of the peace of 1499 which, by omitting any mention of taxes due to Austria, gave the Confederation a tacit independence.

The political atmosphere of the city had been favorable to the peaceful settlement of disputes since the guilds had won political power in 1337. Whereas the change had been made with a great deal of bloodshed in Zurich the previous year, in Basel the ruling group evolved a peaceful compromise with the artisans. Friendly relations had long existed between Basel and the Swiss cantons. An earlier policy of widespread alliances had gradually been replaced toward the middle of the fifteenth century with a policy of increasingly strict neutrality.

Immediately after the peace of 1499, the Rhine lords still owing fealty to Austria vented their resentment against the city in a campaign of commercial and military harassment. Goods from Basel were subject to arbitrary confiscation or excessive duties, with correspondingly long delays. Obvious mobilization measures were carried out across the river from the city, accompanied by repeated threats. These developments turned the thoughts of Basel citizens ever more strongly in the direction of membership in the Swiss Confederation as a protection against their unfriendly neighbors.

The cantons had offered to make the city a member during the war, and now that Basel found its position still difficult, it was ready to consider such proposals more seriously. The last two members to join the Confederation were, it will be recalled, also cities-Fribourg and Solothurn, admitted in 1481. Such was the fear of urban domination on the part of the forest cantons that after 19 years they were still grudging about permitting the two "newcomers" to take seats in the Diet, except when matters directly concerning them were under consideration. Peace revived the caution of the forest cantons, and they rejected any step which would have permitted Basel to add its influence to the urban point of view in confederate affairs. With the Appenzell Pact of 1411 and the Schaffhausen Pact of 1454 as precedents, and Basel's recent policy as an existing trend, consideration of a neutrality article was a foregone conclusion.

In this case the confederates were wooing Basel more than Basel was wooing them, and as a result they could not afford to be too exigent. Forewarned by the experiences of Fribourg and Solothurn, Basel at the outset demanded emphatically that it be admitted with the full rights of the other cantons.

Here was a knotty problem indeed, because the neutrality article of the Appenzell Pact of 1411 had been definitely intended as a part of an inferior status. It was frankly based on the desire of the cantons to exclude Appenzell from any influence in confederate affairs. But not the slightest condescension could be allowed to creep into the Confederation's offer to Basel if quick rejection by the powerful and proud Rhine city were to be avoided.

Records of the negotiations are unfortunately lacking because they were to a large extent oral. Even though there was on one side the forest cantons' desire to neutralize Basel in confederate affairs, and on the other side Basel's record of peacemaking, a different form of neutrality article was called for in order to avoid comparisons with Appenzell. The final result included a provision similar to that of the 1481 Pact with Fribourg and Solothurn, requiring the approval of a majority of the older cantons for future treaties to be concluded by Basel. In addition there was a clause prohibiting Basel from waging war without the consent of a majority of the cantons, and another requiring Basel to accept arbitration by the Confederation or by one of its members in case Basel's foreign opponent in an external dispute should appeal for such arbitration.<sup>27</sup>

It is hard to conceive of the proud merchants and traders who ruled Basel accepting these clauses except under strong pressure. It is known, in fact, that although the wealthy class still hesitated to give up the city's independence-and there were even some who still favored Austria-the mass of the people liked the democratic ways of the Swiss and showed by public demonstrations that they would make trouble if the city's leaders did not take it into the Confederation.

At the same time the rulers of Basel were flattered by being offered a noble and patriotic task-the task of preventing or at least alleviating conflicts between other members of the Confederation. The final neutrality article goes further than any preceding pact in prescribing mediation which should continue in spite of an original failure to prevent hostilities. The full article is as follows: 28 "If, which God may ever forbid, it should sometime come to a conflict between one or several members of the Confederation and the others, Basel shall, through its envoys, labor pacifically to settle such a disturbance, discord or dispute. And even if she should fail therein, she shall not assist one party against another, but shall remain aside (still sitzen) and persist in her efforts of peaceful mediation."

The Diet approved the admission of Basel on June 9, 1501, and on July 13 a huge popular demonstration celebrated the swearing of mutual oaths by Basel officials and representatives of the Confederation. The same clause was inserted in the pact admitting Schaffhausen to the Confederation later that year, and in the pact admitting Appenzell in 1513. This energetic, freedom-loving canton thus took, in sessions of the Diet, a rank ahead of its former ruler and long-time enemy, the Abbey of St. Gall, which was only an ally of the cantons. Appenzell's neutrality, accepted in weakness in 1411, was welcomed a century later in pride and a knowledge of real service to be rendered to the Confederation.

The interstate situation created by these three pacts is described as follows by Lasserre: <sup>29</sup>

"Persuaded that each of the two sides would consider the right to be on its side, as always happens, and as we have seen in 1440 and in 1481: foreseeing therefore that the other cantons would not at first perceive to which side they should, according to the pacts, give help in order to see justice triumph; and knowing full well that if they all let themselves be swept away by their sympathies the war would only be spread further and peaceful settlement rendered more difficult, they sought the means not only to limit a struggle where it was inevitable, but also to procure artisans of peace. Taking advantage then of the entry of new members into their League, they assigned to them the splendid and delicate task – presuming a high degree of self-discipline – of observing a strict neutrality and intervening between the adversaries until they had made peace.

"This solution actually created within the confederation two kinds of members differentiated not by size, by economic and social character nor by their political constitutions, but by their attitude toward inter-cantonal disputes – those who had, so to say, the right to mix into the disputes, and those who had the duty of ending them.

"It is only necessary to think of certain aspects of the present (1945) world, even within the league created at San Francisco, in order to realize the significance of the experiment made by our Confederation.

May the new international organization also find a means of attenuating the risks of internal conflicts which brought on the collapse of its predecessor!"

## ***7 Protestant-Catholic Conflict***

The early sixteenth century saw a major reversal of the policies of the cantons in regard to neighboring powers. The Swiss victories over Charles the Bold of Burgundy in 1476 and 1477 had spread the military renown of the Confederation throughout Europe. Mercenaries served foreign princes by cantonal authority as well as by individual recruitment, and Swiss troops took part in the frequent military campaigns of the late fifteenth century in northern Italy. About 25,000 soldiers from the cantons were serving in the year 1500 with rival armies – some with the King of France and some with the Duke of Milan. Fraternal conflict was barely avoided, and incidents like this promoted opposition to the mercenary service and prompted consideration of a policy of external neutrality. Within the next 22 years, two serious defeats for Swiss troops at Marignan and Bicocca in Lombardy provided other persuasive arguments for a purely defensive military posture.

An unforeseen test awaited the confederate peacemaking machinery only 18 years after the Basel neutrality article was accepted. This device was intended to prevent future city versus country conflicts, but a completely new line of division and discord was started within the Confederation when Ulrich Zwingli launched the Swiss Reformation on New Year's Day, 1519.

Zwingli soon became the political as well as the religious leader of Zurich, and before long the religious division became the dominant factor in confederate politics, as other cantons held public disputations and repeated referendums of the citizens to determine whether they should embrace the new faith.

Economic factors had been moving toward an inevitable preponderance of the cities in the Confederation, in spite of the suspicions and antagonisms of the rural cantons. With the admission of Appenzell in 1513 the rural cantons totaled only five (Uri, Schwytz, Unterwald, Glarus and Appenzell) and the city cantons seven (Bern, Zurich, Lucerne, Solothurn, Fribourg, Basel and Schaffhausen), with Zoug divided.

Development of the religious split at least made the balance of power more even. After about fifteen years of Protestant conversion and Catholic counter-reformation, this came to rest in general on a seven to six basis – Uri, Schwytz, Unterwald, Lucerne, Zoug, Solothurn and Fribourg, Catholic; and Bern, Zurich, Basel, Schaffhausen, Glarus and Appenzell, Protestant. The last two named rural cantons were closely divided on religious lines, and not always to be found on the Protestant side of questions. The canton of Appenzell was later

partitioned into the Inner Rhoden (Catholic) and the Outer Rhoden (Protestant) to prevent intra-cantonal religious conflict.

As Protestantism gained in Switzerland, the new bitterness tended in one way to wipe out the old. Solothurn and Fribourg, the two cities whose relationships with the Confederation had almost brought about civil war in 1481, were still anathema to the forest cantons in 1519. But when these two cities stood by the ancient faith in the face of Protestant advances, the Catholic forest cantons dropped their antagonism and wooed their support. On the other side, these two cities had for centuries past been allied to Bern, and when this city went Protestant, the old ties provided an important bridge of understanding.

No neutral religion has been invented; on the contrary, religious differences tend to be less subject to compromise than any other kind. Therefore the Reformation put the institution of the neutral cantons and the very concept of neutrality to the acid test. In general the officially appointed neutral cantons attempted to fulfill their task of mediation, but as the struggle became sharper, fraternal Protestant ties drew them to the aid of Zurich and Bern, and even in those cases where they persevered in their mediation attempts, their efforts had limited tangible success because of the suspicions of the Catholic cantons.

Such was the flexibility of the Swiss confederate system, however, that a new peacemaking group was formed, with Solothurn and Glarus – neither one officially obligated to mediate – forming the core. These two were joined sometimes by one or more of the three officially neutral cantons, occasionally by Fribourg, and sometimes by Bern, whose rivalry with Zurich moved it from time to time to continue to seek peace when Zurich was bent on war.

Hemmed in as it was by the Protestant cantons of Bern and Basel, yet allied with the Catholic forest cantons, Solothurn was forced by the very nature of his case to follow a very prudent policy. This did not mean complete passivity, but included active intervention for the restoration of peace and understanding. Another factor of importance in Solothurn's peace-making policy was the presence of the French ambassador. 'France was the constant ally of the Swiss cantons – as much through the French kings' interest in a steady supply of mercenaries as from reasons of friendship. But since one of Zwingli's cardinal political doctrines was the ending of foreign mercenary service, Zurich refused to sign the French treaty of capitulation and France moved its embassy to Solothurn, where it generally promoted a policy of conciliation among the other cantons.

In Glarus, neighbor and ally of Catholic Schwytz, the Protestant faith had a slight edge over Catholicism, and this rural canton found itself in just the reverse of Solothurn's position – but with every bit as much incentive to prevent civil war within its borders by preventing religious war between the cantons. Glarus assumed a role of active mediation, and when internal difficulties came up in spite of all attempts at conciliation, the two religions were ultimately established on a basis of equality, with Protestants and Catholics using the same churches for services at different hours.

Following the victory of Zwingli's reform at Zurich, the first countermove of the Catholic cantons at the level of federal law was an attempt to exclude Zurich completely from confederate affairs. This failed because of the resistance of other city cantons, and in the face of growing public agitation, the Diet in 1526 took a step which would be considered extremely bold by present standards of statesmanship. Zurich had held public disputations in which Catholic leaders were welcomed but uniformly defeated in the votes of the audiences. Now the confederate Diet, in its turn, determined to hold a grand public disputation in Baden, a city which was under Catholic control. Official representatives were sent by Bern, Basel and Schaffhausen, but Zurich officials forbade Zwingli to risk his life in Catholic territory. The Catholic side triumphed.

Shortly thereafter Bern invited all bishops, all cantons and all cities of Southern Germany to participate in meetings which were to determine that city's official religion. The higher Catholic officials declined to participate, but Zwingli (who crossed intervening Catholic territory heavily guarded by Bernese troops) pointed out his differences not only with Catholicism, but also with Luther. Shortly thereafter the Great Council of Bern, in the face of the opposition of the higher bourgeois elements, embraced Reform.

Serious religious disturbances broke out in Basel at the end of December, 1528, and calm was restored only after the ambassador of the other cantons had rushed into the city to conciliate the factions. In January, 1529, the city of Erasmus directed that the Evangelical faith be preached at all churches.

Four months later the Catholic cantons threw a bombshell into confederate affairs by signing their "Christian Alliance" with Austria. Coming only 30 years after the Confederation had won de facto independence from the Hapsburg throne, this step aroused widespread misgivings. Now it was Zurich's turn to chide the forest cantons on the danger of allying themselves with the "hereditary enemy". The city sent a large delegation to appear before the landsgemeindes of the Catholic cantons and urge the danger of their course.

As the storm clouds gathered, a few leaders threw all their abilities and energies into the struggle for confederate peace. Foremost among these was the Bernese poet, artist and satirist, Nicholas Manuel. Like most active Swiss of that age, Manuel had served for a time as a mercenary soldier in Italy. Stifled by the military atmosphere, he returned to Bern where he busied himself with painting and producing biting satires against the abuses of the Church. Two of his plays, "The Pope and His Servants" and "The Contrast between the Pope and Christ", were performed at the carnival of 1523 and did much to swing Bern opinion in the direction of Reform.

In 1524, the entire Confederation became emotionally involved in a religious dispute concerning the subject territory of Thurgau, to the northeast of Zurich. This territory was governed by a group of the cantons, a majority of which was Catholic. As Reform spread among the population of Thurgau, the Catholic majority in the ruling group intensified its efforts to combat the new faith, and this trend aroused resentment in the Protestant cantons. When the crisis threatened to break out in civil war, Manuel bent more and more of his energies to peacemaking. Elected to the Upper Council of Bern in 1528, he spent most of his time traveling from canton to canton for conferences to settle recurring religious disputes. Despite already enfeebled health, he represented the city of Bern in more than 30 conferences and important political negotiations within two years. He settled an uprising at Interlaken, and spoke effectively for Reform at Basel, Schaffhausen and Solothurn. In 1529, when rival Protestant and Catholic armies actually took the field, it was his influence as much as anyone's which prevented the outbreak of actual hostilities.

Manuel died prematurely in 1530 at the age of 46. Within a year war was declared again and this time it was not bloodless.

Far from renouncing military form Zwingli had drawn up, since winning control of the Zurich government in 1524, his own plan for conquering the Catholic cantons. When their pact with Austria of April, 1529, brought a wave of resentment in the reformed cantons, Zwingli thought he saw his chance to sweep Switzerland for Protestantism without much difficulty or bloodshed.

But Bern was cool to the conflict, and in early June, 1529, its troops were missing from the Protestant army poised for invasion of the forest cantons at the border village of Kappel, midway between the lakes of Zurich and Zoug. Austrian troops were missing from the Catholic side because they were fighting the Turks. Meanwhile Nicholas Manuel and delegates from Solothurn, Fribourg, Glarus, Appenzell and Schaffhausen were doing their utmost to mediate the dispute. Knowing this, the armies took the expedition lightly, and there are many idyllic pictures of the soldiers from both sides of the line dipping their bread in the same bowl of milk.

Nevertheless Zwingli's zeal still ruled the Zurich contingent, which made preparations to march across the line to Catholic Zoug. At this moment the widely respected landamman of Glarus stepped forward before the captains and dissuaded them from going further, with promises of an honorable peace. Dierauer reports Zwingli as crying out at this point: "Fellow landamman, you will answer to God for this. The enemies are in a corner and without defense; now they give us fine words, but later, when they are ready, they will not be easy on us."

Bern reduced the demands of Zurich, and the first "Landfriede" or religious peace – still

favourable to the Protestant cantons, but containing the seeds of future conflict – was signed on June 26 without a casualty. The severity of Swiss religious wars may fairly be judged by the fact that this incident is called the First War of Kappel in Swiss histories, presumably because troops were brought face to face.

Of the four cantons designated by treaty as protectors of the Abbey of St. Gall – Zurich, Lucerne, Schwytz and Glarus – it happened to be the turn of Zurich to have a military force stationed in the Abbey on the outbreak of the first "war" of Kappel. Zwingli quickly took advantage of this opportunity to drive out the Abbot, sell the buildings to the town of St. Gall, and establish free constitutions for all former subjects of the Abbey, affording them practical self-government under the military protection of the four cantons. When Lucerne's turn to appoint the captain in charge came in the autumn of 1530, this captain naturally refused to take an oath to observe the new constitutions; and Zurich, which by then had won the support of Protestant Glarus, maintained its control in defiance of the two Catholic protector cantons.

Meanwhile the 1529 alliance of the Catholic cantons with King Ferdinand of Austria had been countered by an alliance of Zurich, Bern and Basel with Strasbourg, and a pact linking Zurich, Basel and Strasbourg with the landgrave of Hesse.

Stung by continued victimization of their co-religionists, the Protestant cities imposed a food embargo on the forest cantons, as Zurich had done in the old Zurich War of 1440. The answer of the old cantons was the same. After appealing for help to Austria, the Holy Roman Empire, and the Pope, the forest cantons suddenly advanced with a large force toward Zurich on October 11, 1531, and Zwingli himself was killed in the ensuing battle. Following another Protestant defeat on the Gubel, mediation was led by Fribourg, Glarus and Appenzell, assisted by the ambassadors of France, Savoy, Milan and Baden-Durlach. The second War of Kappel was ended by a new landfriede or peace treaty on November 16, 1531. This event marked the beginning of the Catholic counter-reformation in Switzerland. Zurich lost its influence in Eastern Switzerland, and the Abbey of St. Gall was re-established in its sovereign rights, with only the Toggenburg Valley retaining nominal freedom of religious worship.

Although Solothurn troops had not actually seen fighting in the Second War of Kappel, the victorious Catholic cantons placed a fine on the city for having called out its troops on the demand of Bern. With the coming of peace, the forest cantons offered to remit the fine if the Protestant faith were forbidden. Popular votes in Solothurn had shown a Catholic majority in 1529 and an equal division in 1530. For a time in 1532 Protestants held a slight margin in the city council, and they offered to pay the fine in order to keep freedom of worship, but this offer was refused.

Catholic ascendancy in Confederate affairs fostered a no-compromise attitude in Solothurn, where tension mounted to the point that in the autumn of 1533 almost daily crises threatened to bring bloodshed and involve the other cantons in renewed civil war. In the midst of negotiations on use of one of the city's churches by the new faith, Protestants had seized some cannon, retreated across the Aar River, burned the bridge to prevent pursuit, and set about fortifying their position. Negotiations were again attempted, but while they were in progress Catholic volunteers broke into the city armory, rolled the heaviest cannon to the river bank across from the Protestants, and prepared to open fire.

Suddenly an impressive figure strode to the front of the battery. It was that of the Catholic chief official of the canton. According to the legend, he then surprised and overwhelmed the men in charge of the imminent bombardment by throwing himself across the mouth of a cannon, declaring: "If the blood of brothers must be spilled here, let mine be the first to flow." Certain it is that Landamman Nicholas Wengi carried his tireless peacemaking efforts right into the field of imminent conflict and that they were finally successful.

Descendant of an illegitimate branch of the influential Wengi family, Nicholas had started his political career in the Lower Council ten years previously and had been elected landamman in 1532. In the Second War of Kappel Wengi had seen his compatriots summoned as allies of the Protestant Bern, and he threw himself into the struggle to prevent renewed religious

conflict. Following his intensive conciliation efforts of 1533, he held the office of landamman until a year before his death in 1549.

In preventing warfare within the canton of Solothurn, Wengi had saved the precarious peace between Catholic and Protestant blocs of cantons in the Confederation as a whole. On the following day, October 31, 1533, ambassadors from each of the twelve other Swiss cantons assembled in Solothurn to mediate between the contending religious groups and outline a settlement.

Also acting as mediators were ambassadors from the Bishop of Sion, the people of Valais, and the cities of Bienne, Mulhausen and Constance. Bern provided the key to the success of the negotiations. Although Protestant itself, it could not approve the insurrection of its co-religionists in Solothurn. The canton officially embraced the old faith, a few Protestants remained (only in isolated rural areas), and Solothurn gradually assumed a special peacemaker's role which exercised an important influence on the subsequent history of the Confederation.

Although there is no doubt of Wengi's important role in preventing the outbreak of religious warfare in Solothurn, reputable Swiss historians do not vouch for the legend which has him throwing himself over the mouth of a cannon, and some, in fact, challenge his idealism. But the authenticity of the legend is perhaps not as important as the fact that it arose, was passed on through the centuries, and became part of patriotic Swiss folklore. It reveals a popular respect for the heroes of peace as well as for those of war.

At this time a European consciousness held a large place in most educated and intelligent persons' minds. National states had not yet become consolidated, and cities had important and direct relations with others. When a city anywhere in Europe changed from Catholic to Protestant, it was a matter of concern to cities in all other parts of the continent.

For centuries nearby cities had sought the help of one or more of the cantons in settling their disputes, and in the period of intensified religious conflict after the second landfriede of Kappel, conciliation and mediation were frequently carried on by representatives of the cantons beyond the limits of the Confederation of that time.

Geneva, not a member of the Confederation in the seventeenth century, but an important ally of Bern and Zurich, is a case in point. In 1541, Jakob Meyer, Mayor of Basel, wrote to his council from his temporary residence in Geneva: <sup>30</sup> "I regret that I cannot return to the city as soon as you request, because the negotiations now in progress are apt to last at least two weeks longer, and it was, after all, in accordance with your original directions that I have determined to remain until some settlement is found."

Not until three years later was the settlement finally signed and sealed. The interval had been occupied by laborious and detailed negotiations; by the patient creation, on the part of the mediators from Basel, of an atmosphere in which each side would be prepared to make concessions. Involved in the negotiations was a whole bundle of disputes arising out of the military occupation of Geneva by the forces of Bern, and the treaty of 1536 which ended that occupation.

Many conferences had been held at Lausanne between delegates of Bern and Geneva in an attempt to settle the points at issue, but neither side would make concessions, and Bern mobilized its troops in an attempt to overawe the proud and unbending city at the end of Lac Lemman.

Fortunately the pact of 1536 contained the provision that in case the two parties could not agree, they should call on Basel to initiate mediation. But fearing to show weakness, neither Bern nor Geneva would take the initiative of requesting Basel's mediation, and in fact it required all the powers of persuasion on the part of the Basel delegates in order to induce the Genevese to entrust the northern city with this responsibility. On the other hand it is interesting to note that on the basis of peacemaking experience which already at that time went back two centuries or more, Basel refused to arbitrate in this dispute as it had refused to arbitrate in other conflicts. Instead it pursued consistently the path of friendly mediation.

With masterly skill, Jakob Meyer invoked the religious concepts of the Reformation in his separate notes and talks with delegates of the two Protestant cities. He explained to Bern

that since its territory was so much more extensive than that of Geneva, its concessions would also have to be greater. With an eye to the predestination in Calvin's creed (the Geneva reformer had just been called back to that city and given increased powers), Meyer pointed out to the delegates of Geneva that if it was God's will for their territory to grow, it was not necessary that it do so immediately, but that it would in His good time.

Calvin threw his influence on the side of concessions and reconciliation, and on the other side, the Bernese clergy, encouraged by letters from pastors in Basel, Zurich and Strasbourg, worked for a more conciliatory attitude on the part of their government. Slowly and painfully, the basis of a continuing peace was built. Finally, after three years, a new pact was signed on February 9, 1544.

Other conflicts which appear insignificant in the perspective of history, but any one of which might, if allowed to grow, have developed into full-scale civil war, were settled by mediation and conciliation during this century.

Solothurn representatives in 1580 helped mediate a frontier dispute between Bern and Fribourg which showed danger of developing into a religious struggle. Confederate deputies helped mediate an uprising of peasants in the canton of Basel in the so-called Rappenkrieg of 1594. The mixed canton of Glarus, in 1597, mediated religious disputes between the Abbey of St. Gall and its former subjects in Appenzell, and also disputes between the Abbey and its largely Protestant subjects in the Toggenburg valley. Later in the same year the confederate Diet, by mediation between the contending parties within Appenzell, arranged the division of this community into Protestant and Catholic parts, with forced migration of the dissident minorities in each case.

After Geneva's famous Escalade of 1602, in which the Protestant city was saved from Catholic Savoy, Solothurn intervened as mediator in the negotiations, and was joined by Basel, Schaffhausen, Glarus and Appenzell.

## ***8 Peace in the Midst of War***

Religious disunity was a powerful brake on peaceful expansion of the Confederation in the sixteenth century. The forest cantons abandoned the Grisons to the east in 1531 and 1532 largely because of religious differences; in 1545 and 1548 they prevented the Protestant cantons from helping Strasbourg and Constance; on three separate occasions they refused to accept Geneva into the Confederation, and in 1584 refused to admit Strasbourg.

It will be recalled that the older interior cantons had put a brake on expansionist policies of the newer cantons forming part of the outer border of the Confederation in the very pacts which admitted them to membership. The pact with Solothurn and Fribourg is an outstanding example: Solothurn and Fribourg were obligated to make peace whenever called upon to do so by a majority of the eight old cantons. Even in the case of the powerful city of Basel, confederate approval was required for new pacts with outside powers. Meanwhile constant divisions within the Diet prevented a strong policy of expansion by the Confederation as a whole.

The slow expansion of the Confederation—so deplored by some Swiss historians—turned out to have certain advantages when the Thirty Years' War broke out in 1618. Instead of being faced with the task of holding together many weak and recent members, the Confederation, despite its serious inner division, confronted the strong pressures from the outside Protestant and Catholic powers with a compact group of cantons determined to remain free of foreign rule, and realizing the dangers which civil conflict presented in this connection.

During the Thirty Years' War destruction was so complete in southern Germany that a century and a half were required for rehabilitation. Travelers passing from Germany to Switzerland at the conclusion of the war wrote with amazement of the contrast between the appearance of countryside and people. Historians are inclined to fix this period as the time when the fundamental basis for Swiss prosperity was laid. Spared the destruction and heavy expenditures of war, the Swiss also benefited from the removal of competition with some of

their products.

Internal peace was preserved despite the fact that creedal hatreds were nowhere more strongly than among the deeply religious Swiss. Catholic cantons consented as seldom as possible even to meet with Protestant cantons in the general Diets for the transaction of urgent business concerning the administration of subject territories, renewal of foreign treaties, etc. In fact, meetings of separate Diets – Catholics on their side and Protestants on the other – were five times more frequent during this thirty-year period than meetings of the general Diet including all thirteen cantons.

Five cantons were at this time the kernel of Catholic power within the Confederation: Uri, Schwytz, Unterwald, Lucerne and Zug. The people of these cantons required the large-scale importation of grain and other foodstuffs in order to live. When access to the markets of the Protestant cities became uncertain, starvation forced the people to turn to the plains of Lombardy across the Alps and there they had to come to terms with the hereditary enemy, the Hapsburgs. The treaty of 1529 signed by the five cantons with Austria was renewed periodically. In 1557 they signed a treaty with another Catholic power – Spain. In 1560 they allied themselves with the perennial enemy of Protestant Geneva – the Duke of Savoy, and in 1565 with the Pope. In 1586 Saint Charles Borromeo – member of the family which dominated Stresa and part of Lago Maggiore – succeeded in bringing the hesitant Fribourg and Solothurn also into the alliance with outside Catholic powers, called the League of Gold, or the Borromean League.

On the other side, Bern and Zurich shared the leadership of the Protestant group and were actively supported by Basel and Schaffhausen except when the latter were performing their constitutional duty of mediation and conciliation. Glarus and Appenzell, the two remaining cantons, were rural and a mixture of Protestant and Catholic. Internal religious dissensions did not prevent active conciliation and mediation on their part between the two blocs of cantons.

By the end of 1631 the Protestant cause had won some phenomenal successes in Germany. The Swedish King, Gustav-Adolph, inflicted defeat after defeat on the Austrian forces in southern Germany, and brought his armies to the very borders of the Swiss Confederation. His offer of an alliance to the Protestant cantons in 1631 was made all the more tempting by the Catholic alliances of their opponents. Zurich was prepared to accept the offer, but Basel and Schaffhausen, bearing responsibilities for the conciliation rather than the aggravation of disputes in the Confederation, secured rejection of the treaty by the Protestant Diet.

The spark that very nearly extended the Thirty Years' War to Swiss territory was struck in 1632. Mulhausen, north of Basel and a close ally of the Protestant cantons, was threatened first by one side and then by the other side of the European conflict. The city called on the Swiss cantons for help, and in responding to this call, Bern sent its troops through the territory of Catholic Solothurn without special notice. They were waylaid by Catholic extremists and nine were killed.

Bern issued an ultimatum, but Solothurn called on the five cantons and on France for aid. The sentence pronounced on the raiders was light and Bern, not at all satisfied, mobilized for war. Finally new negotiations were launched, and a settlement was reached through the untiring efforts of the French ambassador, Henri de Rohan, and of the Basel delegation, in which a young councilman named Johann Rudolph Wettstein was particularly active.

Protestant cantons felt justified in allowing the passage of belligerent troops across their territories where this was sanctioned by existing pacts, and Catholic cantons felt free to do the same. But the fact that the territory of Protestant Basel was violated twice by large outside Catholic armies between 1633 and 1637 led to growing apprehension. On the other side, the Catholic cantons were particularly alarmed when the Swedish army occupied Stein-am-Rhein in 1633, suspecting that the move was made with Zurich's cooperation.

Soon the five cantons plus Fribourg and Solothurn signed an even more intimate treaty with Spain than had existed before. On the other side, Bern and Zurich again considered an alliance with Sweden, and after preliminary negotiations, went so far as to draw up a draft

treaty. This project would undoubtedly have split the Confederation wide open. But the officially neutral cantons of Basel and Schaffhausen, despite the ridicule and denunciation heaped upon their neutralism by Zurich pamphleteers, again took a firm stand against the proposed pact, and succeeded in defeating it in a Protestant Diet at Aarau in 1634. The defeat of the Swedish General Horn shortly thereafter confirmed the wisdom of this decision also from a practical military point of view.

As the foreign armies foraged the countryside surrounding Basel, food supplies became short, and with the arrival of 8,000 war refugees in a town of 20,000, real famine set in. Nevertheless, Basel leaders recognized that conditions would only be worsened by entry into the conflict. In holding themselves strictly to the internal neutrality prescribed by the confederate pacts, the impartial cantons saved the external neutrality of the Confederation as a whole and kept it an island of peace in a sea of destruction.

Although harassed by internal hatreds and dissensions, a general Diet of Protestant and Catholic cantons in 1636 mustered enough unity and courage to urge the Holy Roman Emperor and other princes to intercede for peace.<sup>31</sup> But this move was coldly received and did not bear fruit.

Although the Confederation was not actually engaged in war, a large number of men were kept under arms as a measure of defense, and war taxes therefore were not unknown. When some of Bern's subjects revolted in 1640, the government called on all Protestant cantons to mediate. Again in 1641, after passage of a levy on capital, disorders broke out, and delegates from Zurich, Basel, Schaffhausen, Glarus, Appenzell, St. Gall and Bienne spent most of the month of June bringing about an understanding between Bern and its peasants.<sup>32</sup>

As the Thirty Years' War drew to a close, the people of Basel elected as their mayor Johann Rudolf Wettstein,<sup>33</sup> whose career epitomized the spirit of Swiss peacemaking. Born in 1594 of parents who had moved to Basel from a peasant background in Zurich territory, Wettstein left a position as Imperial notary at the age of seventeen to seek adventure in the army of the Republic of Venice. Soon disgusted with this life, he returned and started a steady rise in Basel public life, greatly aided by a sure political instinct and an abundant but patient energy. His part in settling the 1632 affair between Solothurn and Bern, climax of a series of lesser successes in interstate peacemaking, established his reputation as a mediator throughout the Confederation.

Besides coping with famine and plague, Wettstein was called upon soon after his election as mayor to deal with an Austrian attempt to take advantage of the exhaustion of most of the Rhine cities by increasing taxes. Since Basel, Schaffhausen and Appenzell had joined the Confederation *after* the peace of 1499, which freed the cantons as of that date from all imperial obligations, the Imperial Court of Chancery in Speier held that these three "new" cantons were still liable to contribute taxes to the Empire. Objections of the Swiss Diet were waved aside, and Austria prepared to collect the taxes.

Mayor Wettstein had been among the first to see the need for having the Confederation represented at the peace conference which would conclude the war, and Austria's move reinforced this conviction. Armed with powers only from the Protestant cantons, Mayor Wettstein took part in the peace conference for a year at Munster and Osnabruck in 1648. In contrast with the other delegates, he lived in extreme simplicity, yet because of his negotiating skill he became known throughout Europe as "King of the Swiss." A letter to his family relates that once when the Swedish envoy paid an official call, he could offer only a chair with one arm broken off. "I was caught off guard," he wrote, "or otherwise I would have broken the other arm off to save the honor of Switzerland."

By his frank but prudent approach and his unassuming manner – plus comprehensive knowledge – he brought about the insertion in the Treaty of Westphalia of a declaration that "the town of Basel and the other Cantons of the Helvetians possess what is tantamount to complete freedom and exemption from the Empire ..."<sup>34</sup> But it was another matter to secure observance of the Treaty after its signature. In the face of continued demands by Imperial agents on Basel, Mayor Wettstein led a delegation to Vienna, where he succeeded in having

the necessary orders issued finally to give effect to the complete independence of the Swiss cantons.

Showered with honors by his townsmen and in fact by the entire Confederation, he continued to attend sessions of the Diet frequently until discouraged by its acceptance of a new French treaty providing for the recruitment of Swiss mercenaries. He died in 1666.

Although Switzerland had been spared the ravages of warfare on its own territory, hardship had increased among the peasants, and in 1653 rebellion was simmering. The Catholic cantons attempted to settle the discontent in Lucerne's often turbulent Entlebuch valley by means of the mediation of the other *Catholic* cantons. After involved negotiations, the landamman of Uri outlined a decision which succeeded in bringing temporary agreement and stopping military preparations.

This was only the first phase of the Peasants' War, however. Discontent flared anew, and the peasants soon cooperated across cantonal and religious lines. Nicholas Leuenberger of Bern's Emmenthal valley was increasingly recognized as leader of the movement for Catholic as well as for Protestant cantons. Mediators from the federal Diet, with Mayor Johan Heinrich Waser of Zurich at their head, had difficulty in preventing an armed clash and in persuading the proud Bernese aristocracy to soften its stand. The French ambassador also attempted mediation, but the tide could not be stemmed, and on May 21, 1653, Leuenberger ordered his troops to march. Magistrates and officials of Catholic and Protestant cantons quickly forgot religious antagonisms sufficiently to achieve close cooperation in putting down the peasants' movement.

The campaign was one of the strangest in Swiss history. Whether from fear of the large number of sturdy peasants arrayed against them, or from forbearance, the governmental forces did not come to an open clash with the peasant army until early June at Mellingen in the northern plateau. And here there occurred what could hardly be called a battle. Armed clashes were interrupted many times during the day by intermissions for discussion among the peasants. Casualties were slight, and finally the peasant leaders came to confer with the authorities. They carried a copy of the Pact of Stans (1481), apparently feeling that their demands for more rights were supported by this document. But a lawyer from Lucerne pointed to the provisions calling for severe penalties against riotous assemblies, and when he upbraided them for their temerity, they meekly obeyed his orders to go home peacefully. Bern was later ruthless in its executions, despite the pressure of Zurich for moderation.

In the very midst of the Peasants' War, the four Protestant cities (Zurich, Basel, Bern and Schaffhausen) were carrying mediation onto the international scene. Emmissaries of Oliver Cromwell had previously come to study the religious and political policies of these cities, and with the outbreak of the English revolution the four cities attempted to bring about peace through letters addressed to Charles I, Archbishop Laud, the Covenanters and the Long Parliament.

The Swiss cities had also established good relations with Holland. As tension mounted between the English and the Dutch they sent friendly warnings against war to both nations. When hostilities broke out despite these attempts at peacemaking, the cities combined to send John Jacob Stokar, clerk of the city of Schaffhausen, as mediator. He softened the demands of Cromwell, and secured acceptance by both sides of the treaty of peace, which provided that the four cities should be arbitrators of future points of disagreement.

Within a few years, the religious struggle again took the center of the stage in confederate affairs. Geneva, though not a member of the Confederation, moved the Protestant cantons to intercede with Duke Charles Emmanuel of Savoy against the persecution of the Waldensians in 1655. Cromwell's envoy John Pell, who was stationed in Zurich with the British theologian John Durie, went so far as to urge the Swiss Protestants to make an armed attack on Savoy. Rejection of this belligerent counsel did not save the Protestant cantons from the accusations of the Catholic cantons who were allied with Savoy, and both sides drew up plans of mobilization. Bern suggested a separate Protestant league, but the mayor of Zurich proposed that the danger of religious discord be alleviated by overhauling the many old pacts and strengthening uniform confederate ties. For a while this program had

some support in Catholic as well as Protestant circles, but soon the old suspicions returned, and the Catholic cantons in October, 1655, renewed their sharply anti-Protestant Borroméan League of 1586.

When seven families who were clandestine Protestants fled from Schwytz to Zurich, the Catholic canton demanded their return in vain. Just as Zurich had suppressed the Anabaptists for their communist beliefs and practices, so Schwytz claimed the same power in relation to *all* Protestants, insisting that confederate peace demanded that each canton remain absolute "master in its own house." But when authorities of Schwytz tortured 22 and executed four of the Protestants remaining, a shocked public opinion in all Protestant cantons countered with strong demands for religious freedom throughout the Confederation. In addition, Zurich had determined that the time had come to improve the Protestant status under the second landfriede (peace treaty) of Kappel. In these circumstances the mediation efforts of the cantons not directly involved, and of the French ambassador, were unavailing, and the First Vilmergen war was declared on January 4, 1656.

But the mediation and conciliation efforts of the impartial cantons and of foreign powers did not stop. Delegates of Basel, Fribourg and Solothurn continued their efforts to bring about a cessation of hostilities, with the aid of the ambassadors of France, Savoy, Venice, England, and Holland. First separate negotiations were pursued-with the Protestants at Brugg, and with the Catholics at Mellingen. Then, after a war of only six weeks, a general Diet met at Baden and a compromise was worked out. Two weeks more were required before Mayor Rudolf Wettstein of Basel and other leaders of the impartial cantons were able to secure ratifications, confirming the Kappel Landfriede. The victory of the Catholic cantons in the first Vilmergen war, which postponed prospects for a closer federal union, cost them 189 dead, while the Bern forces suffered 573 killed.

Minor crises arose and were settled year by year, but in 1695 civil war again became a real threat. In the northeastern corner of Switzerland, the Abbey of St. Gall had lost most of its ancient holdings through freedom movements in Appenzell and in the city of St. Gall surrounding the Abbey. Although the city turned Protestant, the Abbey insisted on conducting the traditional Catholic processions outside the Abbey territory. Several riots resulted, the city made military preparations, and the Abbey called on all its subjects for aid. By virtue of an old treaty long ante-dating the Reformation, the cantons of Zurich, Schwytz and Glarus were protectors of the Abbey. This group showed a rather even religious balance, with the powerful and nearby canton of Zurich on the Protestant side, Lucerne and Schwytz on the Catholic side, and Glarus as an often impartial mixed canton. Delegates of these guarantor cantons immediately intervened as mediators, and in a conference ending June 7, 1697, brought about a peaceful compromise.

A few months later a dangerous conflict arose in subject territory jointly administered by Catholic and Protestant cantons. In the village of Wartau, in north-eastern Switzerland, a Catholic official tried to require the holding of mass in a Protestant district, but was prevented from doing so by the populace. The Catholic cantons were convinced that law and order required that the official's directives be obeyed, and in mid-August were preparing to "carry the theater of the dance" into enemy territory, as one of the leaders expressed it. Dierauer records that the sword was suspended at this time by a very thin hair. But as usual, the cantons not directly involved – Catholic and Protestant – took the affair energetically in hand and on their own initiative convoked a general Diet at Baden, where a compromise was adopted abolishing the Catholic faith at Wartau.

We have seen how the Peasants' War of 1653 found Protestant and Catholic peasants cooperating on one side, and Protestant and Catholic burghers and officials uniting on the other side. And we have seen how, only three years later, the cantons again opposed each other on religious lines in the First Vilmergen War. At the beginning of the eighteenth century somewhat the same pattern was followed, with the exception that open warfare was avoided on agrarian lines, and hostilities were delayed until the split was again on religious lines.

The Toggenburg valley, between Zurich and the Abbey of St. Gall, was at this time still subject to the feudal rule of the Abbey. An independence movement originally embracing

both religions boiled to the surface in 1701 and won the support of democratic elements in neighboring cantons. Catholic Schwytz, which had in the 14th and 15th centuries played such an active role as protector of peasant freedom movements, was persuaded by its landamman – Joseph-Antoine Stadler – to renew the old pact of friendship concluded with the Toggenburgers in 1440 on the eve of the Zurich war. The Abbey proposed arbitration by Bern, Solothurn, Zurich and Lucerne; and Bern – also opposed to peasant uprisings for its own reasons – was inclined to accept this approach. But agreement always foundered on the Abbey's refusal to give up its Austrian alliance.

The issue became more and more one of religion, since Protestant communes of the Toggenburg naturally tended to go further in their demands for independence from the Abbey than Catholic communes. Schwytz, though Stadler remained in office, wavered in support of the Toggenburgers, and in the crucial days when the canton was approaching a decision between peasant liberation and the demands of the Church, two Jesuit orators appeared in Schwytz, where they exhorted the people three times a day for eight days. Stadler lost control and was condemned to death in September, 1708. Schwytz went completely to the side of the Abbey.

War had been looked upon as inevitable since the spring of that year, but nevertheless Dierauer reports that the people were far from unanimous in wanting it. Only seven of the thirteen cantons were actively involved in the dispute: on the Catholic side the five cantons: Schwytz, Uri, Unterwald, Lucerne and Zoug; and on the Protestant side, Bern and Zurich. The official neutrals, Basel, Schaffhausen and Appenzell, as well as Glarus, Solothurn and Fribourg, attempted mediation.

The Toggenburgers continued their pressure for independence, and on April 13, 1712, took over administration of their own financial affairs with a declaration of freedom from the Abbey. The Catholic side issued a counter-manifesto on April 24, and the Second Vilmergen War was on.

This time the Protestants won the upper hand, and on June 8, 1712, submitted their conditions to the Diet at Aarau. Lucerne and Uri, ignoring the exhortations of the papal nuncio, ceased hostilities, leaving Schwytz, Zoug and Unterwald to fight on until the Protestant victory at Vilmergen July 25, 1712. Although it lasted only four months, this was the most sanguinary of all the Swiss religious wars, with 206 dead on the side of the victors, and 2,000 from the ranks of the vanquished. Peace was negotiated at Aarau on August 2 with the aid of the mediating cantons and the French ambassador.

This fourth and final landfriede set the course for Swiss religious tolerance and "peaceful co-existence". Terms of the treaty provided for complete parity, equality and autonomy of the Protestant faith, with independent rights of legislation within the ecclesiastical jurisdiction. The Diet was given a Protestant as well as a Catholic secretary, and it was determined that questions of religion were no longer to be decided by a majority of cantons, but by special arbitration tribunals on which Protestant and Catholic representation was to be equal. In the administration of subject territories, the upper hierarchy of officials was to alternate evenly between Catholic and Protestant, while the officials in the lower ranks were divided on religious lines in proportion to population. It was also agreed in the future not to involve the subject territories in wars which might break out between the cantons. After laborious negotiations, the people of the Toggenburg valley were granted complete religious freedom and important political rights in a later settlement with the Abbey of St. Gall.

## ***9 Stratification, Decline & Regeneration***

The "senile trophy" – to borrow a phrase from the Swiss historian William Oechsli – of Swiss political institutions in the eighteenth century fixed the confederate structure along the lines of Catholic-Protestant division. The social structure also became rigidly stratified. The ranks of the burghers, or full citizens of the towns, were gradually closed to new applicants, whether residents or not, and soon a rise such as that of Rudolph Wettstein from peasant

boy to mayor became impossible. Cantonal governments came to be dominated by largely hereditary oligarchies, and peasants were kept in firm subjection.

Subject territories in Aargau, Thurgau and the Tessin were ruled by various combinations of the old cantons, which took turns appointing a bailiff to administer each territory for a period of two years.

In Thurgau the eight older cantons had taken over the existing structure of feudal rule from Austria, and as a result had under them about 130 manorial lordships belonging to ecclesiastical authorities, to towns, and to private individuals. Subject peoples came to be regarded as fair game for all the money bailiffs could squeeze out of them. Bribery and extortion, particularly in the administration of criminal justice became the rule, and in the forest cantons appointments to the post of bailiff were openly purchased for high prices. In spite of their landsgemeindes the forest cantons came to be ruled – in fact if not in theory – by a few dominant families.

The Catholic cantons, embittered by their defeat in the Second Villmergen War, signed a secret pact in 1715 with Louis XIV of France, placing themselves completely under the protection of France, in return for which France engaged itself to do everything possible to reestablish the Power of the Catholic cantons as against Zurich and Bern.

Fraternal spirit was at such a low ebb that when France in 1736 attempted to seize an island in the Rhine as a threat to Basel, this important northern bastion of the Confederation could not get sufficient help, diplomatic or otherwise, from any of the other cantons and finally had recourse to mediation by England to settle the matter with the French king.

Burghers of broader vision were looked on with suspicion by the city oligarchies. Inspired by the writings of Franz Urs Balthasar, Isaac Iselin of Basel and Solomon Hirzel of Zurich, progressive leaders founded in 1761 the "Helvetic Society", ostensibly for simple recreation, but actually with the patriotic aim of bringing intelligent and distinguished men together from the various cantons, regardless of creed, and so reinforcing Swiss unity. A Schaffhausen member went so far as to declare at one of the Helvetic Society meetings that "our free states should fuse into a single state whose burghers should all have equal rights and duties." Alarmed by such notions, the oligarchies of Bern, Lucerne, Fribourg and Solothurn temporarily forbade all attendance at these meetings.

Paradoxically Geneva, the western outpost of confederate influence, made a long stride toward democracy with the aid of the Catholic king of France in the first part of the eighteenth century. Geneva at this time was not a member of the Swiss Confederation, but as a center of Protestantism had long been an ally of Zurich and Bern. In the face of a small, self-perpetuating and increasingly arrogant oligarchy in the Small Council, Micheli du Crest led the rank and file of burghers – who themselves constituted a limited and privileged group in contrast with the "natives" – in demanding the summoning of their assembly and establishment of their right to vote taxes. Serious riots broke out in 1737, and Zurich and Bern sent mediators. The French king also injected himself into the mediation by virtue of the treaty of protection of 1579, seized the dominant role, and favored the cause of the burghers to such an extent that the new constitution of 1738 gave their assembly the final decision over war and peace, alliances, laws and the increase of taxation; burghers were given access to the Great Council, and the "natives" were allowed to enter all professions.

By guaranteeing Geneva's constitution the two Swiss cities and France had secured grounds for future intervention. Following renewed outbreaks of violence in 1781, Zurich and Bern refused to allow France the major role, and mediation was not even begun. Military force was employed by France, Sardina and Bern to help the oligarchy restore its ancient privileges.

In other cities, the ruling oligarchies refused to yield to the growing demands or the end of privilege and freedom from commercial restrictions. Even the orderly submission of petitions for change was often punished severely. In case of Stäfa, a country town in the canton of Zurich, a cautiously worded appeal based upon old confederate documents and unaccompanied by any violence, brought sentences of life imprisonment on the leaders and punishment of some sort to 267 people in all.

When in 1798 the French Directory, coached by Swiss émigré democrats, sent its armies to liberate French-speaking Vaud and the Bernese Jura from the iron rule of Bern, there was little effective resistance. Zurich, Lucerne, the forest cantons, Zoug, Glarus and the town of St. Gall sent only 4,900 men in all to help in the defense of Bern, and those of Uri, Schwytz and Glarus withdrew before the city fell.

Last-minute concessions offered by backward regimes did not save them from complete loss of power, in many cases with loss of life. The tiny canton of Zoug, where confederate mediation in 1404 had established equality of rural and urban political rights, was an island of relative calm in a stormy sea of social change.

The influence of the French Revolution brought great advances to Switzerland, some as a result of voluntary though tardy reforms as in Basel, some as a product of internal revolutions in advance of French occupation as in Vaud, and some by direct imposition by the French army, as in Bern. Ultimately French rule made all Swiss equal before the law, established freedom of religion and of the press, abolished subject territories, equalized tax rates, eliminated torture and other corporal punishment from the administration of criminal justice, and established a uniform system of coinage and a nation-wide state-owned postal system.

But attempts by the French to impose a rigid centralization upon the Swiss in the form of the Helvetic Republic failed. Recurrent conflicts broke out among the Swiss themselves as well as between the Swiss and their foreign rulers. Napoleon fell back on the more flexible procedure of mediation. Calling the ambassadors of the various cantons to Paris, he negotiated a settlement called – doubtless with a canny eye to Swiss political background – the Act of Mediation. This document left some autonomy to the cantons, but understandably left authority at crucial points in the hands of the Mediator.

With the defeat of Napoleon, the Congress of Vienna imposed on Switzerland a return to the old regimes. Narrow cantonal oligarchies were restored, and the Diet, which three hundred years earlier had started taking some decisions by majority vote, returned to a strict unanimity rule and published its proceedings in German only.

The democratic ferment of the times was not long, however, in coming back to the surface in the Swiss cantons. In the wave of revolts which threw off reactionary regimes in many of the cantons between 1830 and 1833, confederate mediation played an important part in reducing bloodshed and destruction.

The march toward democracy started in Switzerland several weeks before the July Revolution in Paris. On July 4, 1830, the canton of Tessin adopted a new constitution fundamentally revised in the democratic direction. In 1831 the outer districts of the canton of Schwytz refused to accept the rule of a few ancient families at the capital and set up their own *landsgemeinde*.

The Basel regime, reading the handwriting on the wall as it had so many times before in history, spontaneously drafted a more democratic constitution, but the country districts rejected it as not going far enough in the direction of equal representation. Government troops suppressed one uprising, but when rural leaders were victimized, revolt broke out anew and the government forces were defeated. At this point federal troops occupied the canton, but since the other cantons were uneasy about intervention in internal cantonal affairs, the Diet refused to impose the hated constitution on the country folk. The Basel government countered by withdrawing all governmental authority in 46 recalcitrant communes, hoping that anarchy would force them to accept the rule of the city again. Instead, the communes formed an independent rural half-canton on March 17, 1832, and insistent mediation by the Diet failed to bring the two halves together again. Negotiations through the federal representatives did, however, succeed in arranging subsequently a peaceful separation, under which Basel City and Basel Land still have separate one-half votes in the Council of States at Bern, as do the inner and outer areas of Appenzell, and Obwald and Nidwald, the two divisions of the canton of Unterwald.

Neuchatel, treated officially as a canton, yet still under the rule of the King of Prussia, also came in for federal attention at this time. Led by the independent residents of mountain

areas, the people inclined more and more toward a complete severance of the Prussian tie. On September 13, 1831, they seized the government from the ruling prince, who appealed to the Swiss Diet. Because it feared retaliation in foreign affairs affecting the whole Confederation, the Diet sent troops and persuaded the republicans to lay down their arms under the guarantee of an amnesty. When this amnesty was violated, the Neuchatel regime put down resulting disorders itself and meted out severe punishments.

These democratic uprisings aroused great sympathy among the people of the other cantons, and crowds of volunteers attempted to cross cantonal boundaries in order to help. The seven liberal cantons (Zurich, Bern, Lucerne, Solothurn, St. Gall, Aarau and Thurgau) formed a special concordat to protect their new constitutions on March 17, 1832, and in November of that year the conservative cantons – Basel City, Neuchatel, Uri, Schwytz and Unterwalden – formed the League of Sarnen and declared they would refuse to participate in any Diet which seated representatives from Basel-Land or from Outer Schwytz, which at this time was still holding its separate landsgemeinde.

Meanwhile the question of revising the constitution of the Confederation itself had been brought to the fore by a formal proposal to this effect submitted by the canton of Thurgau which a few decades earlier had been a subject territory. The principle of revision was accepted on July 17, 1832 by fifteen and a half cantons, in defiance of Austrian Prime Minister Metternich's memorial urging the Great Powers and Sardinia to intervene to stem the tide of democracy in Switzerland. Edward Pfyffer, Mayor of Lucerne and hardly to be considered a radical, was made chairman of the Diet's commission of revision, which brought out a moderate report proposing centralization of military training, coinage, customs and postal service but otherwise carefully safeguarding cantonal sovereignty. This draft was further watered down by Zurich, which was then taking its turn as the central clearing house for confederate affairs, and as representative of the Confederation in foreign relations.

Nevertheless the conservative cantons of the League of Sarnen, as well as Zoug, Appenzell, Tessin and Valais, insisted that unanimity was required for any constitutional revision, and when Zurich called a special session of the Diet to consider the proposed amendments, the League of Sarnen set up a rival Diet and declared that decisions of the Diet called by Zurich must be considered invalid.

Foreign pressure failed to increase as Metternich had hoped it would. London and Paris raised no objections to the very moderate proposed constitutional revisions; so that Metternich was forced to limit his intervention to a very active encouragement of the League of Sarnen. Revision foundered rather on the rocks of internal opposition. Although Lucerne leaders had taken a prominent part in drafting the proposed revisions, the clergy threw all the weight of its influence in opposition and the project was -made a dead issue for the time being when it was defeated July 7, 1833, by a popular referendum in Lucerne.

Encouraged by this turn of events, inner Schwytz attempted by force of arms to conquer Outer Schwytz, and the City of Basel attacked Liesthal, capital of Basel Land. Under pressure of public opinion, the Diet countered these acts by occupying Schwytz and the City of Basel with 20,000 troops. Confederate mediation succeeded in reuniting the canton of Schwytz, but bitterness forced a permanent division of the canton of Basel. The Sarnen League was dissolved, but meanwhile Prussia was contemplating an attempt to separate Neuchatel from Switzerland, a step which was thwarted by the Diet's preparations to send confederate troops. Collapse of the constitutional revision project removed the occasion for further intervention by Metternich.

Violent clashes continued to mar Swiss public life. The liberal Zurich government in 1839 appointed Dr. Davis Strauss of Wurtemberg, author of the controversial Life of Jesus, to a chair in the theological faculty of the University, but conservative opposition, culminating in a march on the city by armed peasants, forced a cancellation of the appointment. On the other side, radicals in the Tessin overthrew a clerical government by force of arms in December of the same year.

In the new canton of Aargau an uprising of the conservative Ultramontanes failed on January 11, 1841, and the Great Council, believing that the disturbance had been instigated by the

eight monasteries of the canton, ordered them closed along with the nunneries. But this was viewed by the Catholic cantons as a violation of the religious freedom guarantees of the landfriede which ended the Second Viterben War. Tension was increased by defeat of the liberal Lucerne administration by the Ultramontane party in May, 1841, and the simultaneous beginning of Lucerne's automatic term of leadership in confederate affairs. Bern threatened to send troops to the aid of Aargau if any attempt were made to use force to re-open the monasteries. Ill feeling rose to a dangerous pitch, and continued even after Aargau agreed to the re-establishment of four nunneries in 1843.

Not satisfied with this concession, the mayor of Lucerne proposed to a separate meeting of Catholic cantons in September, 1843, that they secede from the Confederation, appoint a permanent council of war, and launch military preparations. These steps were not all carried out, but the meeting laid the foundation for the Sonderbund, or separate alliance. Basel sent its mayor and a prominent councilman to plead with these cantons for moderation, but the Sonderbund proceeded to underline its claim to autonomy by signing a military alliance with Austria, the "hereditary enemy".

Radicals in the Protestant cantons soon took the law into their own hands. In 1844, and again in 1845, they organized "free corps" expeditions and attempted to invade the Catholic stronghold of Lucerne to drive out the Jesuits, who had made themselves particularly unpopular by incessant political intrigue.

Basel, although Protestant, had had its own troubles with the radicals, and furthermore was suited by ancient tradition to the role of mediator, which it unhesitatingly assumed. An excluded group of conservatives, dissatisfied with the confederate policy of the Basel regime, was successful in bringing about internal constitutional reforms of a moderate democratic character, and in getting some of their men in the Council. These men attempted to apply compromises in confederate affairs which were similar to those successfully adopted internally within Basel.

Liquidation of the Sonderbund had, by 1847, become the chief immediate issue in confederate politics, but in addition the Protestant cantons demanded the exclusion of the Jesuit order from all Switzerland.

The fundamental constitutional issue was the demand by liberals and radicals that a truly federal government be established, with the powers necessary to run a nineteenth century nation. (The looseness of the Confederation of this era may be judged by the fact that Zurich, Bern and Lucerne were taking turns as the confederate capital.)

Austria and France became the open supporters of the Sonderbund, and England the secret advisor of the liberal and Protestant side. The reality of foreign interference was demonstrated when, on January 1, 1847, Bern formally replaced Zurich as the confederate capital. Metternich of Austria led the continental chancelleries in keeping their ambassadors at Zurich, while Robert Peel represented England at Bern.

Basel's delegates to the Diet saw no necessity of forcing the immediate dissolution of the Sonderbund, and proposed that new mutual assurances should be attempted as a substitute for the security which the Catholic cantons were seeking through outside military alliances. They suggested that the question of the Aargau nunneries could be settled by secularizing them under an agreed plan. The delegates finally obtained authority from their conservative home government to approve total constitutional revision, although they continued to recommend partial revision as a more fruitful approach.

One side considered this a weak policy, and the other considered it virtual treason to the conservative cause. Basel's official course was not well understood even at home.

Nevertheless other delegates listened respectfully to the mayor and the president of the Great Council of Basel as they expounded the possibilities of peaceful settlement, and widespread discussion of their proposals laid the groundwork for future agreement, thus shortening – even though it did not prevent – the conflict. The other two cantons which had held the position of official mediators before 1798-Schaffhausen and Appenzell – did not join in Basel's efforts. The only supporter that Basel did have in the Diet – Neuchâtel – actually proved a hindrance in reaching liberal opinion because, as a protectorate of Prussia, this

canton was an outpost of extreme reaction.

All the great continental monarchs, feeling the restlessness of that period among their own subjects, did what they could to keep Switzerland from becoming a "focus of infection" for "godless, lawless radicalism". This activity took the form of giving all feasible aid to the Sonderbund. Although Metternich sent Prince Schwarzenberg to Lucerne to draw up plans of military operations for the Sonderbund, effective foreign military intervention was prevented by the suspicions and disagreements of the foreign monarchs over strategy.

At this time England had replaced France as chief sponsor of Swiss unity, with the main emphasis on eliminating the Sonderbund; although she made a show, at the same time, of cooperating with France and Austria. The mediation efforts of England and of Basel ran along somewhat parallel lines, but there is no record of actual negotiation or coordination of policy between the two. After a certain point England's interest became concentrated on getting the military campaign over quickly, so as to face the continental powers with a fait accompli.

In the Diet the Protestant cantons held a majority of twelve plus two half-cantons, the Sonderbund seven, with Basel, sometimes joined by Neuchatel, as mediator. Basel waged a losing fight, in the crucial Diet sessions of the summer and fall of 1847, to moderate the program of the liberal majority.

On July 19 this majority forced through a declaration that the Sonderbund was incompatible with the ancient pacts, and therefore invalid. Basel had proposed that the Catholic cantons be invited to give up the Sonderbund, and that they be offered new assurances to take the place of foreign military aid. Only the Grisons and the Italian-speaking canton of Tessin had supported the compromise approach.

In August Basel proposed that army officers from Sonderbund cantons merely be put on the inactive list, but the majority insisted on outright dismissal. Shortly thereafter the mayor of Basel warned the majority that "a majority decision which depends for its execution on the use of military force against one or more members is in no wise justified by the pacts. Indeed if twelve members could decide on civil war, this could quite possibly be done against ten. Such a theory is incompatible with the life principle of a confederation; it would lead to a dictatorship of the larger states or to the liquidation of the Confederacy." <sup>35</sup>

Meanwhile the Sonderbund was receiving military aid from abroad, and the majority cantons were also moving toward war. This did not stop representatives of the majority cantons from visiting the seven cantons of the Sonderbund in an attempt to secure a settlement. But when great power inclinations to intervene were sharply emphasized by the menacing advance of 10,000 Austrian troops to the Swiss frontier, the Diet on October 20 openly authorized mobilization. The Sonderbund minority walked out of the sessions nine days later. Even then the Basel delegates did not give up their efforts to arrange a peaceful settlement. Various proposals were submitted, and discussion refined the issues down to their fundamental minimum.

Nevertheless, the Diet soon gave the Protestant but conservative General William Henry Dufour of Geneva his orders to execute a military dissolution of the Sonderbund. Paradoxically, the opposing commander in charge of Catholic Sonderbund troops was also a Protestant – Salis Soglio of the Grisons. In this case Soglio's conservative opposition to the radicals' plans for a federal state provided a sufficient bond with the Catholic Sonderbund to permit his appointment as commander.

General Dufour's call for the mobilization of troops placed Basel in an awkward position because of internal political division. Many officers and men declared they would refuse to march against the Sonderbund, and on the other hand the radical leaders declared that if the Basel regime did not support the Diet majority, their obligation to support the regime was at an end. The Diet majority, for its part, insisted that a refusal of the troop levy by Basel would mean that the city must be treated as an enemy like the Sonderbund. Therefore the Basel regime agreed to obey the troop levy, but re-asserted its condemnation of the war and instructed its representatives to miss no opportunity to arrange a peaceful settlement.

Privately General Dufour agreed that in order to prevent pitched battles in the streets of

Basel its troops must not be sent against the Sonderbund; publicly, he pointed out that in view of the threat of foreign intervention and Basel's exposed position on the frontier, its troops should remain mobilized in their own territory. On November 24 Dufour's army captured Lucerne, after a restrained but adroit campaign of 25 days in which confederate casualties were 74 killed and 377 wounded, and Sonderbund casualties 39 killed and 175 wounded.

To Basel's great satisfaction representatives of four of the Sonderbund cantons resumed their seats in the Diet by the end of the year, and the other three by January 28, 1848. In 1852, the remaining reparation of the Sonderbund cantons – about half – was remitted.

The constitutional convention of 1848 established a federal state in which the processes of active intercantonal mediation were no longer needed. But the present Swiss constitution still includes the following article of the 1848 document,<sup>36</sup> reminiscent of the "still-sitzen" or neutrality enjoined on some of the cantons under the old pacts: "In case of a dispute between cantons, the states will abstain from all summary action and all armament. They will submit to the decision which will be taken on the dispute in conformity with federal law."

## **10 The Swiss Lesson**

Switzerland's voice in the 1919 deliberations to frame the League of Nations Covenant was a very still, small one. But, drawing on the successful experience of their own Confederation, the Swiss delegates suggested that their country assume a peacemaking role in the new League analogous to that of Basel, Schaffhausen and Appenzell in the pre-1798 Confederation. This suggestion received scant attention, and it took a year of arduous negotiations for the Swiss delegates to win even an indirect recognition of passive neutrality for their country. The incident will be described in greater detail and in its proper setting later in this chapter, but is mentioned here to show that the Swiss experience is considered applicable to international affairs – at least in part – by competent Swiss themselves.

Before assessing the relevance of the Swiss experience to world affairs, it is important to interpret and analyze the history of mediation within the Swiss Confederation as presented in preceding pages.

Mediation and arbitration by a lord between his contesting subjects was a widely accepted practice in medieval times. As movements for popular political rights developed, nobles often continued to provide – on request – the third party judgment which succeeded in solving many a dispute peacefully. While rejecting the absolute rule of aristocrats, the Swiss adopted and improved their practices of conciliation, mediation and arbitration.

Those methods of peaceful settlement were common among the free cities of Renaissance Europe, but cities outside Switzerland were ultimately forced to bow to the trend toward centralized control in larger units of political power. In the Confederation the cantons retained a large degree of sovereignty (they still possess more than the states in the United States of America) and the unifying principle was provided by the pacts binding them together and by these procedures of mediation and arbitration.

During the fifteenth and sixteenth centuries, when Swiss internal peacemaking reached its fullest development, two general lines of procedure were utilized: disputes were settled either "in Minne", meaning literally "in love", but connoting a process of friendly compromise embracing conciliation and mediation; or "in recht" ("in law") – i.e. by arbitration under the pacts.

While most writers emphasize the connection between arbitration and regular court proceedings, Usteri, in his exhaustive study of Swiss procedures for peaceful inter-state settlements (see reference 25), maintains that arbitration often had more to do with friendly compromise and mediation than it did with regular legal proceedings. For instance, the rules provided that mediation always be attempted before arbitral proceedings were begun, and the assumption was that mediation might be reverted to at any time. In addition Usteri shows that mediation was generally more successful in great disputes than arbitration. By

maintaining the principle of mutual consent throughout, it avoided the abrupt shocks to public opinion which accompanied arbitral decisions. In a dispute, mediation made each contestant feel the need for convincing the third party or parties that its position was reasonable, but disputants were not forced, as in arbitration, to give up the right to accept or refuse specific terms of settlement.

In the gradual, painstaking development of the Swiss Confederation, cantonal sovereignty was promoted to the highest possible pitch by those interested in driving a wedge between the cantons. The Swiss peasants and artisans were therefore confronted with the incredibly difficult task of separating the non-essentials of local parochialism promoted by divide-and-conquer strategy from the essential values of cantonal self-government. The result of centuries of controversy along these lines, in a country where historical documents are carefully preserved, is a population ranking as high in political maturity as any people in the world.

By an interesting inversion of meaning, leaders in Switzerland who take what would in America be called a state's rights stand are called federalists. In the Alpine Republic the issue (still a very live one) is between "federalists" (state's righters) and proponents of centralization.

The attempts of the Swiss to combine a maximum of autonomy with a maximum security against armed conflict produced a system of interstate relations which applied the principle of voluntarism to an outstanding degree. No permanent machinery for the enforcement even of arbitral decisions was set up. The use of force in the interstate affairs of the Confederation was a last resort, to be applied only after the possibilities of conciliation, mediation and arbitration had been exhaustively explored. What would correspond to economic sanctions in the modern concept of collective security (i.e., economic boycotts against a recalcitrant canton by the confederate Diet) were not prescribed in any of the major pacts. On the contrary, what had previously been, under Austrian rule, a favorite economic weapon against the rebellious peasants (the closing of Zurich's markets, cutting off the forest cantons from their food supply) came in later confederate practice to be considered a hostile act bordering upon actual war.

The cantons had the greatest incentive to make mediation work – the realization that attempts at military enforcement of decisions would open the way for the ever-present Austrian danger to their freedoms. When disputes became dangerous, discussion by representatives of mediating cantons often threw a new light on self-seeking policies of officials of the near-belligerent cantons, leading to changes in attitude which permitted peaceful settlements. It came to be seen that mediation served the best interests of the people of contesting cantons as well as of the mediating cantons.

Nevertheless events proved at an early date that even in the face of external dangers, a disputing canton far too often refused to take the initiative of requesting mediation, feeling that this move would be interpreted as a sign of weakness by the other side and would thus injure its bargaining position. To fill this gap, the tradition of uninvited mediation by disinterested cantons grew not only from a humanitarian aversion to seeing blood spilled, but also from sagacious political and diplomatic analysis along the following lines: disputes must be prevented from going so far as to encourage Austrian intervention. Since a peaceful settlement might not be reached if it were left up to disputing cantons to seek mediation, disinterested cantons must be encouraged to conciliate and mediate on their own initiative.

As we have seen, the peacemaking function was considered so important that Appenzell was given the specific duty of fulfilling this role in the Pact of 1411 – a century before being admitted to full membership in the Confederation. Through two hundred years of "cold war" between Catholic and Protestant cantons, the communities which were more evenly divided or impartial for other reasons mediated many times without invitation. Basel representatives met a chilly reception from the officialdom of both contending sides when they attempted to prevent the Sonderbund War of 1847, but their efforts have since been recognized as a major factor in limiting loss of life and postwar bitterness. Thus the active form of conciliation and mediation – starting on the initiative of the mediator, without waiting for belligerents or

near-belligerents to request his "good offices" – is an integral part of Swiss political history. Mediation efforts often involved direct appeals to all citizens gathered in landsgemeindes, especially in the early centuries. When the forest cantons were eager for war to increase their holdings south of the Alps in the first part of the fifteenth century, the fraternity evidenced by the pacts involved the granting to representatives of other cantons of the right to be heard on the question. Thus persuasive orators were permitted to speak in opposition directly to the people of the cantons which were on the point of war. In the older cantons, the citizen was considered competent to judge the issues of war, of peace, and of transition from one to the other.

Throughout the tortuous negotiations which prevented war between the cantons and resulted in the Pact of Stans (1481), cantonal sovereignty was strictly observed on important points by dealing with such questions "ad referendum" – in other words, subject to a referral by each ambassador back to his home canton. In the case of the forest cantons, this often meant a decision by vote of all citizens. Thus cantonal sovereignty was a protection to popular sovereignty, and with the creation of a true federal state in the nineteenth century the discussion of affairs in the Diet "ad referendum" was easily transposed into the modern referendum—a popular vote on a nation-wide scale. In recent years, half a dozen major national issues were submitted to a vote of the Swiss people, and the constitution even permits the people themselves, through petition and then referendum, to initiate legislation.

Freedom of speech was zealously maintained and asylum offered to exiles of all stripes, from royalist to communist, prior to World War I. Except for its failure to give women the vote Switzerland was, in the early twentieth century, a priceless gem of democracy. How could the complex fabric of popular consent which forms the modern Swiss government ever have developed if the Swiss had forsaken the path of conciliation and mediation for a unity enforced by the bayonet?

It is not claimed that force or the threat of force never entered into Swiss inter-cantonal agreements. The centuries-old Swiss tradition of universal military service is well known. Mediators usually did not act selflessly, nor did they always permit the disputants to ignore the strength of their troops. But if ambassadors from mediating cantons acted from self-interest, it became an increasingly enlightened self-interest which saw inter-cantonal – and even European – peace as one of the major concerns of all members of the Confederation. The fact that this enlightenment came largely through independent conviction rather than through the military coercion of a central government was of the utmost importance in the development of Swiss democracy.

It may be objected that the best efforts toward mediation failed to prevent the war between Zurich and the other seven cantons from 1440 to 1446. But here it is plain that Austrian diplomacy was at work, especially after 1442, designedly setting Zurich against the other cantons. It is obvious that mediation could not succeed where a power outside the interstate organization was allied to one of the members and influential in guiding its policy, and yet at the same time was intent on re-asserting its domination over the whole group.

When the Treaty of Westphalia ended thirty harrowing years of religious warfare for Europe outside Switzerland, the nationalism it engendered was welcomed in many quarters as a pacifying factor which would, by cutting across the lines of religious division, diminish the virulence of conflicts. This same Treaty of Westphalia for the first time explicitly recognized Swiss independence and neutrality, and perhaps the Swiss example actually helped to bring about nationalism. Here was a Confederation bitterly divided on religious lines, yet remaining at peace through thirty long years of religious warfare on its borders, and prospering greatly as an island of peace in a continent at war. What monarch would not try to secure similar economic benefits?

Swiss peace and prosperity was due, however, not to any magic name used to produce a shallow, emotional nationalism, but to patient, complicated and lengthy negotiations between and among all communities, large and small, to settle grievances and disputes short of armed conflict – in other words, to the building up over several centuries of a tradition of united action in certain limited fields, based on an infinitely complex tissue of popular

consent. In Switzerland conciliation and mediation developed the processes of peaceful settlement, the appeal to reason, and federation by consent, from the bottom up, whereas in neighboring kingdoms military processes of unification developed centralized power, restriction of local liberties and government from the top down.

The Swiss did not need chauvinistic nationalism to save them from religious warfare. With minor exceptions they already had *saved themselves* through their tradition and institutions of peaceful settlement, and therefore they viewed this new development of European civilization with a high degree of detachment. Their patriotism developed along defensive rather than expansionist lines, and was combined with at least a generalized concern for European peace. Particularly during the past century they have tempered their nationalism with a consistent interest in world cooperation and in alleviating the horrors of war.

### ***Are parallels valid?***

Readers may ask what the conflicts and peacemaking techniques of tiny Alpine communities centuries ago have to do with the affairs of the huge nations of today on the world-wide stage. It is obviously impossible to establish perfect analogies between one historical age and another. But it would be no less presumptuous to assume, solely because of a difference in size, that there could be no valid parallels between the inter-cantonal problems of the Swiss Confederation and the international problems of the world today. In a discussion of political relationships and structure, as in a study of function and type in the animal world, for instance, the factor of size has limited relevance. The zoologist discovers so many valid parallels between mouse and elephant that he includes both animals in the class of mammals. In political structure, size is significant chiefly in connection with the factor of rapidity and ease of communications, which were more difficult in Switzerland during its formative period than they are today on a world-wide scale.

Certainly the sixteenth century Confederation showed a far greater cultural and social homogeneity-even though it already included French-speaking Fribourg-than does the modern world of many races and religions. There was a certain fluidity of migration between the cantons-as there was between other parts of Europe at this time-but the religious "cold war" and the hardening of cantonal lines later established complete control by each community of permanent immigration from other cantons. Even now, more than 100 years after establishment of a fully federal state, deportations of individuals from one canton to another are still carried out. In 1951 a man who had earned a living for many law-abiding years in Geneva was deported to his home canton because he had been imprisoned for a felony there, contrary to the representations he made when applying in Geneva for the right to reside and secure gainful employment.

The cantons exhibited, in respect to other members of the Confederation, many of the same "we against them" group reactions that mark the attitudes of nations today. Policies of the cantons were often self-centered, self-glorifying and full of suspicion toward each other. Supporters of local autonomy expressed misgivings about the activities of the Diet, just as many national leaders now express fear of United Nations intervention in domestic concerns. Other observers saw the Diet as an ineffective body preaching idealism but without real significance. Similar views are held by many today in regard to the United Nations.

The people of the sixteenth century Confederation regarded other cantons as valuable allies in their struggle against aristocratic domination, but certainly not as fellow citizens with whom one could cooperate to pass laws affecting the people of all the cantons. Each canton retained full sovereign rights, maintaining its own armed forces, coining its own money, and setting its own duties on commerce. Meetings of the Diet were merely conferences of ambassadors, where all new questions had to be referred back to the cantonal governments. The Confederation had no permanent staff, and Diet meetings were moved from city to city. Although there was often effective military cooperation between the cantons, no permanent overall scheme of military command was approved until 1647, and even then it was largely confined to paper. Not until the nineteenth century was a permanent federal army

established. On the other hand, a defensive and spiritual unity, symbolized by the peacemaking of the saintly Nicholas von der Flüe, has been a fine but politically effective net holding the cantons together.

With its permanent staff of 6,000, its own budget and headquarters, and its missions sent all over the world, the United Nations is already in many ways a closer interstate union than was the sixteenth century Swiss Confederation. But whether it can find a similar spiritual tie remains to be seen. Perhaps this tie will be found in the world-wide renown of Gandhi and in renewed, imaginative attempts to apply non-violence in a practical way to world affairs. Perhaps it will be found in the establishment of new international practices and institutions evoking and constructively applying the natural aversion felt by the people of all countries for war.

### ***The Swiss approach to international Mediation***

If there are valid parallels between the political problems of the old Swiss Confederation and those of the United Nations today, is not the strengthening of active conciliation and mediation in world politics vital to future world peace? In order to approach an answer to this question, it is necessary first to mention the changing attitude of the Swiss themselves toward their role in international affairs.

Originally the Swiss attempted an international neutrality of active conciliation, examples of which have been described in Chapter 9 and the Appendix. Over the centuries the active ingredient disappeared, and many modern observers find their moral sense outraged by a nation which has apparently accepted a privileged position in world affairs, above the battles of other nations and free to make money from both sides. A thorough analysis of the causes for this change would require a more extended historical study than the author has been able to make; but it is possible to deduce certain probabilities from the character of mediation.

Obviously mediation can succeed only when the two belligerents accept the third party's offer of mediation, and negotiate in good faith. But the great powers showed nothing better than tolerance toward neutrality – in peacetime condescending and in wartime resentful – except where it served the diplomatic conception of their own interests. As for accepting the active mediation of Switzerland in their own disputes, the great powers were not inclined to brook this denial of their penchant for keeping diplomatic initiative in their own hands.

Thus in order to protect their own peace and prosperity, the Swiss and other neutrals were by and large persuaded to give up any active role in initiating peace negotiations. As the Federal Council reported on August 4, 1919: "Since the severance [begun in 1499 and consummated in 1648] of Switzerland from the Holy Roman Empire, she has never been organically bound by political ties to any other state, and, congruent with this, she has turned her neutrality into the direction of the utmost possible passivity towards the wars of other states."<sup>37</sup>

This inert form of neutrality has engaged the attention of many scholars, but it is a question whether experts in international law have ever really understood active mediation and peacemaking in the political context. The Swiss historian Edgar Bonjour states: "It is true that international lawyers of the time – Grotius in Holland or Vattel of Neuchatel, who was more familiar with conditions in Switzerland – sought to find a place for neutrality in their systems, but they did so quite superficially and the position of Switzerland was merely alluded to. Practice hastened ahead of theory. It is notable that the Swiss practice of neutrality was governed by stricter principles than its doctrine in international law, and the idea of a more absolute neutrality of the utmost possible passivity towards the wars of other states."<sup>38</sup>

Adequate studies in this field require the exploration of a whole new dimension of international relations. The Swiss example reveals neutrality as a kind of military-political zero which proved extremely useful in saving peace among the cantons. As a concept by itself, zero means literally nothing. But combined with other mathematical concepts, to which

it at first seemed antithetical, it has become a key to the marvelous engineering feats of today. Might not the active waging of peace, on a constitutional basis within a permanent union of nations, work similar wonders in world politics?

### ***Applications of the Swiss Experience***

Exhibiting contradictions similar to those which beset the modern world, the Swiss cantons, while utilizing methods of peaceful settlement, were always strong exponents of military preparedness. Prior to 1848 this meant preparedness in considerable degree against each other as well as against outsiders. Nevertheless the present political structure of Switzerland emphasizes consent of the governed rather than military coercion.

What does this indicate regarding the possibilities of building an increasingly stable peace in the world of nations, even though the latter refuse at first to give up more than a fraction of their armaments? Is it possible that a release of the peacemaking potentialities of the uncommitted nations – coupled with vastly improved modern techniques for reaching world opinion – may in time demobilize men's minds, dissolve iron curtains, and make war more and more unthinkable?

It has been pointed out that in the early Diet's discussion of political questions "ad referendum", cantonal sovereignty safeguarded popular sovereignty. But mediation, insofar as it subjected elected cantonal officials to processes which caused them to change their minds, might be said to have *infringed* cantonal sovereignty. This was particularly true in regard to official control over *external* affairs, and it was at this point that cantonal sovereignty was sacrificed to enhance popular sovereignty.

Although fiercely determined to retain control of their own internal cantonal affairs, the Swiss were willing, from the earliest times, to give the other sides a hearing on the external policies of their cantons. As early as 1393 ambassadors of the six other cantons were heard by the Council of Zurich on a proposed treaty between that city and Austria. Their intervention in Zurich's external affairs was so effective that it resulted in repudiation of the treaty and the exiling of the pro-Austria mayor.

This was not so much the peaceful settlement of an existing dispute with Zurich as it was the far more delicate matter of foreseeing that Zurich's proposed alliance with Austria would sooner or later mean war, and using peaceful persuasion in time to prevent events from going in that direction.

Unterwald's policy toward its neighbor, Bern, was changed in 1371 following addresses to the landsgemeinde by ambassadors of Zurich, Uri and Schwytz. The canton of Uri was prevented, by appeals from its confederates, from going to war with Milan in 1475. On the other hand, as late as 1832, the Diet refused to use federal troops to impose a moderate constitution on the rebellious country districts of Basel, and instead permitted them to organize a separate half-canton and adopt a constitution of their own choice. After more than four hundred years of confederate development, what was it that prevented what some modern commentators on world affairs would call "decisive" federal action in this case? The distinction here must be sought in Swiss recognition of the vast difference between a peaceful remonstrance or intervention, and use of the military to force a constitution on an unwilling people.

Among the cantons there developed a general recognition that the external policies of each canton concerned the external problems of every other canton, and a general willingness to hear representatives of other cantons urge a reversal of positions taken by cantonal leaders on external policy. Such discussions, carried out in open meetings of the entire electorate must, over the centuries, have had a remarkable educational effect on the people and greatly clarified their understanding of confederate affairs. The same relationship can be stated in the opposite way: since major questions of cantonal policy were decided by the landsgemeindes, the soundness of those decisions was limited by the degree of understanding of the people. The peacekeeping record of the Confederation as compared with the rest of Europe, and the free and prosperous modern result are strong evidence that

this level of understanding was high.

The role of peacemaking in all this is not immediately apparent, but nonetheless vital. Without the general practice of intercantonal conciliation and mediation, opposition to a war-like course within a canton would have had little prestige or respectability and would have been easy for ambitious leaders to smear with charges of cowardice or appeasement. It was the actual presence of a respected representative of another canton, urging a course of peace and moderation, that must countless times have forced frank discussion in the landsgemeindes and city councils, enhanced popular interest, and thus promoted popular understanding of confederate issues.

Can the educational role of mediation safely be ignored today? Might not mutual understanding and peace be advanced if nations could arrange to exchange regularly the privilege of addressing open meetings of each other's highest legislative bodies?

### ***Cold War – Then & Now***

The world today, like the Swiss Confederation of the sixteenth to eighteenth centuries, is a more or less closed political system under tension. That is to say, a major political event in the smallest, most out-of-the-way constituent unit has repercussions throughout the group. Substitution of a Catholic priest for a Protestant minister in a tiny commune of seventeenth century Switzerland – or the reverse – often became a political issue throughout the Confederation. There was an uneasy truce – a cold war among the cantons on religious questions. Similarly, what happens in Korea, Indo-China or Taiwan affects major decisions in Europe, and a communist victory in a small Central American republic causes concern in many world capitals.

Arnold Toynbee has pointed out that the existence of two contrasting economic and social doctrines can be a healthy stimulant to progress. But the negative effects of war fears may be greater than the good effects of stimulation – unless the nations can make the institution and practice of peaceful settlement more dynamic, flexible and effective.<sup>39</sup>

Military strategists talk of the danger of "power vacuums" in areas remaining uncommitted to either side of the world "cold war". But hundreds of millions of people will remain unwilling to go to war in far-away lands for causes they do not understand. What are the dangers of trying to keep these people in a "policy vacuum" by insisting that they should have nothing to say on world affairs unless they are willing to go to war about it? Is there, perhaps, some similarity between the beneficial effect of a large independent vote in restraining entrenched domestic political parties, and the possible effect on world politics of a significant but flexible group of uncommitted nations?

The success of the Swiss in preventing all save a few brief religious wars on their territory is all the more remarkable when one considers the difficulty of effecting compromises in disputes of this kind. There could be no neutral religious stand between Catholicism and Protestantism, and therefore compromise was sought on a geographic and administrative basis. In the canton of Glarus, for instance, where the religious division was and still is very close, one early settlement provided that the higher cantonal officials were to be equally divided between Protestant and Catholic, but that the lower ranks were to be apportioned in the same ratio as the respective populations. It is here that the frugal population ultimately came to the point of using one church (at different times, of course) for Protestant and Catholic services. In fiery Appenzell, such measures of peaceful co-existence failed, as is related in Chapter 7.

The United Nations, attempting to bridge the gap between Soviet and Western spheres, most deal with what is essentially a socio-economic conflict, with an intolerant religious flavor on both sides. Insofar as the present world split involves clashing social and economic systems, the facts disclose many shades of gray, instead of only black and white. The scale runs from American "peoples' capitalism" through recurrent British Labor administrations, Scandinavian Social-Democratic governments, and actively Socialist regimes such as those of Burma and Yugoslavia, over to Soviet communism. Peaceful adjustment among the

nations ranged in the world's varied ideological spectrum should be easier than the laborious negotiations required for peace between the two religious blocs in the Swiss Confederation, split asunder by the Reformation.

Is it not possible that every successful type of peacemaking will tend to reduce the fanatical pseudo-religious content of communism and of aggressive anti-communism, and therefore open the way for further and even more effective peacemaking?

Attempts at mutual subversion and disruption were present in the Swiss religious conflicts, as in the Soviet-Western tension today. But the Swiss cold war was exacerbated by the outside influence of Austria. In the modern world, it may be asked whether policies of mutual subversion cannot increasingly be reduced to the level of hot political campaigns, since there is no subversive influence outside the world to profit by sowing dissension?

### ***Further Proposals for Mediation in International Affairs***

In regard to international politics, we have seen that the Swiss themselves withdrew into the most passive form of neutrality they could devise. But the idea of active conciliation and mediation in the international community was taken up by others. At the first Hague Conference in 1899 the Belgian Senator Chevalier Descamps suggested that neutrals ought to abandon their attitude of selfish passivity and become active for the maintenance and restoration of peace. He called this idea the doctrine of "paci-gerat", and it resulted in the following Articles of the Convention for the Pacific Settlement of Disputes:

"Article II. In case of serious disagreement or conflict, before an appeal to arms, the signatory Powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly Powers.

"Article III. Independently of this recourse, the signatory Powers recommend that one or more Powers, strangers to the dispute, should, on their own initiative; and as far as circumstances may allow, offer their good offices or mediation to the States at variance.

"Powers, strangers to the dispute, have the right to offer good offices or mediation, even during the course of hostilities.

"The exercise of this right can never be regarded by one or the other of the parties in conflict as an unfriendly act."

Article VIII prescribed a procedure by which disputing powers were each to appoint one mediating Power, and the dispute was then to be referred *exclusively* to those two Powers for a period of thirty days. In case of a definite rupture of pacific relations, these powers were "charged with the joint task of taking advantage of any opportunity to restore peace."

President Theodore Roosevelt's successful use of mediation to bring about a peaceful settlement of the Russo-Japanese War in 1905 may be credited largely to the discussions of the first Hague Peace Conference.<sup>40</sup>

In the Second Hague Conference of 1907 essentially the same provisions were approved as in 1899, except that instead of the phrase "signatory Powers recommend ..." in Article III, the phrase "contracting Powers deem it expedient and desirable. ..." was substituted.

With the outbreak of World War I the whole idea of the Hague Convention came to seem futile to many statesmen. Government officials in the neutral countries gained the impression that despite the Hague assurances, active mediation would be regarded in an unfriendly light by the belligerents. Throughout Europe, however, groups of women were insistent that something be done to stop a conflict which a few months before had been considered unthinkable. Women's suffrage and other organizations sent more than 2,000 delegates to The Hague Congress of Women in late April, 1915, and two groups of delegates from this Congress then spent three months conferring with foreign office officials of fourteen countries. They reported:<sup>41</sup>

"Our visits to the war capitals convinced us that the belligerent Governments would not be opposed to a conference of neutral nations; that while the belligerents have rejected offers of mediation by single neutral nations, and while no belligerent could ask for mediation, the creation of a continuous conference of neutral nations might provide the machinery which

would lead to peace. We found that the neutrals on the other hand were concerned lest calling such a conference might be considered inopportune by one or other of the belligerents. Here our information from the belligerents themselves gave assurance that such initiative would not be resented."

Accordingly, Rosika Schwimmer, Hungarian feminist and pacifist, Jane Addams, head of Chicago's Hull House, and other leaders of the Hague Congress of Women met several times with President Woodrow Wilson to persuade him to call for joint mediation by the neutrals. When these efforts failed, a dramatic unofficial move was launched. Henry Ford, at Mme. Schwimmer's suggestion, announced that he had chartered an entire ship for a trip to the neutral countries, and invited American political and intellectual leaders to join the well-known "Ford Peace Ship." The American State Department cooperated by keeping necessary offices open nights and week-ends in order to complete passports for the several hundred delegates within the three weeks between announcement of the trip and the sailing from New York on December 4, 1915.

Allied diplomacy smeared the effort with a whispering campaign, and some press correspondents promoted internal disruption as well as pouring out a withering ridicule in their daily dispatches. Disheartened by dissensions within the group, Henry Ford returned to the United States, but an unofficial center for permanent mediation was continued for a year in Stockholm.

Still, the encouragement of two Hague Conferences plus a strenuous unofficial campaign failed to inspire neutrals to attempt official, concerted conciliation or mediation. Would any new international declaration in favor of active peacemaking fare any better?

First it must be recalled that neither Hague Conference named the neutral powers who were to be encouraged to offer mediation. With the great powers preparing for war and openly treating the Hague Conventions as Utopian dreams which must not be allowed to interfere with military victory, it is small wonder that each weak neutral preferred to leave the initiative up to some other country. In addition, the relevant articles did not set up an actual obligation on the part of neutrals to act as peacemakers. In spite of the Conferences' recommendations, good standing as a neutral depended not on peacemaking activity, but on observance of a legalistic set of regulations governing neutral economic and military policies. Perhaps more important is the fact that in 1914 there was no official, continuing organization for the discussion of world affairs, and therefore no official body which could even make an inquiry on how the peacemaking recommendations were being carried out.

### ***Swiss Neutrality and the League of Nations***

The people's desire for lasting peace and the idealistic aims enunciated by the Allies in World War I evoked a great interest in reorganizing international relations, in Switzerland as well as elsewhere. Private organizations including many prominent names were busy drawing up specific proposals for a League of Nations throughout the war, and on May 4, 1918, months before the Armistice, the Political Department of the Swiss Government started its consideration of them. In November, 1918, Switzerland's official Consultative Commission presented a project<sup>42</sup> for a League of Nations giving to the permanent neutrals a relatively active role in the machinery of conciliation and mediation which was to be set up. This project was communicated to all nations with which Switzerland maintained diplomatic relations.

Nevertheless Swiss representatives to the League of Nations Commission meeting in Paris under the chairmanship of President Wilson had to face the scornful incomprehension of the great power diplomats when they urged the value of pacific action by permanent neutrals. Thirteen neutral states were represented at a special conference called in Paris by the general Peace Conference a month after the main outlines of the League Covenant had been published. Switzerland was represented at this conference, starting on March 20, 1919, by M. Felix Calonder, Federal Councillor; Alfred Frey, National Councillor; and Professors Max Huber and William E. Rappard.

The following paragraphs from the Federal Council Message of August 4, 1919,<sup>43</sup> describe the Swiss position and recall the practical idealism of Rudolf Wettstein, as well as the difficulties he faced in the negotiations leading to the Treaty of Westphalia:

"The Consultative Commission, in its session of January, 1919, expressed itself with practical unanimity in favour of the maintenance of Swiss neutrality within the League, and this, too, when it had in mind its own project which contemplated a much more highly developed League than that of the present Covenant. The decisive consideration for the Commission was the desirability of the existence of perpetually peaceful member-states which, like Basel and Schaffhausen and Appenzell in the old Confederation, would be able to play the part of permanent mediators; and, side by side with this consideration, the Commission had in mind also the need for a reasonable apportionment of the risks arising out of membership of the League.

"The Federal Council was well aware that the recognition of a permanent neutrality for Switzerland, when within the League, would have to encounter great difficulties and that, among the belligerent states, neutrality was judged with little favour and oftentimes with injustice; nevertheless it despatched the already mentioned Memorandum of 8th February 1919, to all states alike. This excluded all possibility of the ambiguity which might be engendered by the idea that Switzerland was ready in any event to sacrifice her traditional policy. The diplomatic representatives of our country, as well as other qualified persons to whom the Federal Council had entrusted the protection of Swiss interests at Paris, left no stone unturned in order to render the particular standpoint of Switzerland quite intelligible. This was a heavy task and, when dealing with foreign states, a thankless one.

"In view of the severe, but easily understandable, opposition which the recognition of our neutrality met with, the only course open to Switzerland – which as a neutral state both from the historical and legal point of view had up to now asserted and assumed a special position – was to maintain its own neutrality without taking steps to secure for all neutral states as such any special mission."

After a year of very difficult negotiations the Swiss were able to secure an indirect sanction only for their passive neutrality in Article 435 of the Peace Treaty. The closest that the Covenant of the League came to mentioning conciliation or mediation was the provision of Article 15 that "The Council shall endeavour to effect a settlement of the dispute."

Since peacemaking has been closely connected with the democratic control of interstate relations in Swiss history, it is relevant to quote here the reasons given by the Federal Council for putting the accession of Switzerland to the League of Nations up to a popular referendum: "In consequence, however, of the creation of a League of Nations and of the new orientation of her neutral policy which this will entail, the foundations of the foreign relations of Switzerland will be partially altered. In this matter the people must take its proper share. Nothing could be more disastrous for our internal politics than the adoption by the Chambers of a decision in which they were not certain of the support of a majority of the people. Nor could anything be more harmful to the idea of a League of Nations than that our entry into the League should seem to have been forced on us by our authorities for reasons which the people were not acquainted with or deemed inadequate."<sup>44</sup>

Catholic leaders quoted the 'advice of Switzerland's savior of 1481, Bruder Klaus, in opposition to Swiss mixing into world affairs through the League. The pro-League group carried the battle directly to Bruder Klaus' canton, Unterwald, with other quotations to show that he had meant to oppose mixing into foreign quarrels *militarily*, but that he was not opposed to peaceful cooperation with foreign powers. Voters approved Swiss entry into the League by the slim majority of two half-cantons, and it was also provided that Swiss *withdrawal* from the League could not become effective until that step should likewise be approved by a favorable vote of the people and of the cantons.

In view of these incidents and the general Swiss background, it might be important for the Western nations considering review of the United Nations Charter to find a way of bringing Switzerland in as a consultant on Charter Amendment even though it is not yet a UN member.

Switzerland's non-membership in the United Nations, despite the country's generally advanced policy of international cooperation and the presence of important agencies of the world organization in Geneva, marks one of the sharpest incongruities of the present era in world affairs. The chief reason that the Swiss have never applied for membership is their conscientious refusal to accept the military clauses of the Charter which their traditional neutrality would not permit them to implement in case of conflict. The Swiss Confederation is therefore an obvious candidate for the office of active peacemaker and permanent neutral. If they can be brought to realize the full significance of the Swiss experience, some larger nations now divided or otherwise disinclined to participate in the cold war would be other likely candidates.

There should be a frank and formal recognition of the necessity for effective peacemaking through the appointment of certain nations by the world community to act as permanent neutrals forbidden to intervene in any armed conflicts, but bound to conciliate and mediate at every opportunity.

Thirty-five years of history should compel a careful consideration of the role of Japan, Germany, Poland, Hungary and Austria. The latter's passive neutrality would need to be made active by specifically stated obligations. The last free government of Hungary – that of Premier Nagy – specifically requested a neutral status under the United Nations on November 1, 1956, and Poland might welcome a similar role. The resistance of the Japanese and German people to remilitarization suggests the obvious possibility of a far more useful and constructive role for these nations as active neutrals. As a matter of stark realism, the Swiss early recognized the danger of encouraging problem areas to re-assume full roles in military power-politics. Can this consideration safely be ignored in the modern world of nations?

### ***How Can Swiss Precedents aid UN Peacemaking ?***

Aside from the status of particular countries, the Charter of the United Nations bears reconsideration in regard to general provisions for conciliation and mediation.

Articles 33 to 38 providing for the pacific settlement of disputes place no definite peacemaking obligation whatever upon members which are not directly involved, although Article 35 provides that "any member of the United Nations *may* bring any dispute ... to the attention of the Security Council or of the General Assembly." Under paragraph 2 of this article, states not members of the United Nations may bring disputes to the attention of the Security Council or the General Assembly *only if they themselves are parties to the dispute*. This effectively rules out an initiative by a non-member neutral concerned to prevent or settle a conflict.

Present obligations of members not involved in a dispute start only with the application of sanctions under Article 41 "to give effect to decisions" of the Security Council. But when this stage is reached, even economic sanctions by members may be looked upon by the recalcitrant state as "unfriendly acts" under older treaties or concepts of international law. This is not conciliation, but economic war, and many states will refuse to undertake it. Thus there is an inherent weakness in the sanctions procedure at the very point where quickly united action is most essential.

Even the Security Council itself is placed by the Charter under no definite obligation to conciliate or mediate in specific disputes. Article 34 provides: "The Security Council *may* investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, *in order to determine whether* the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security."

But there may be many disputes the peaceful settlement of which would definitely *not* be aided by Security Council debate on whether the dispute "is likely to endanger the maintenance of international peace and security." Those urging Security Council consideration of the dispute are forced by this section to magnify its seriousness in such a way as to run the danger of impeding a settlement.

Articles 36 and 38 are also permissive – in other words they create no definite obligation on the part of the Security Council, but state that it "may ... recommend appropriate procedures or methods of adjustment," or it "may ... make recommendations to the parties with a view to a pacific settlement of the dispute." Only in Article 37 – which depends for its operation on submission of the dispute to the Security Council by the disputants – is the word "shall" used in this connection.

The parties to a dispute are themselves obligated under Article 33 to seek a solution "by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice", but this is hardly adequate. There is still too much danger that neither side in a really dangerous dispute would seek such forms of peaceful settlement because that step could be interpreted by the adversary as a sign of weakness.

Paragraph 2 of this Article reads: "The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means."

But by the time a dispute has reached such proportions that the Security Council "deems it necessary" to make this call, it is only too possible, judging by the history of the past half-century, that the antagonism of the disputants will have hardened to such an extent as to ensure a rejection of the Security Council request. Thus although United Nations *practice* has resulted in considerable effective conciliation and mediation, the fact remains that no explicit peacemaking obligation on the part of states not involved in the dispute is stated in the Charter. Surely this matter is of sufficient importance to merit consideration in connection with proposals for Charter amendment.

The Swiss experience shows that one decade's appointed peacemakers do not always continue to function in future decades. Therefore a generalization of the peacemaking obligation is needed somewhat along the line of the Pact of Glarus (Chapter II), and the proposed Pact of Fribourg (Chapter V). A new provision of the United Nations Charter should lay a definite obligation on every member, in case of a serious international dispute, to offer its services as conciliator or mediator. This would eliminate or at least weaken the suction drawing small nations into the vortex of the large nations' disputes, where threat and counter-threat become the prelude to war. World opinion would deal severely with any large nation which rejected all eighty or so of the other nations of the world as mediators.

Swiss practice also dealt with the problem of the weak drawing the strong into war. The pacts uniting the cantons contained firm limitations on the rights of new members occupying peripheral territory to become involved in quarrels with neighboring powers. In some cases the treaties forbade a new canton to conclude any alliances without the approval of the older cantons at the center. In others the new members were required to make peace with any outside adversary at any time they were requested to do so by a majority of the eight older cantons. Applications of this sort of provision to modern treaties of alliance such as the NATO and Warsaw pacts, Southeast Asia Treaty Organization, etc., might help reduce the danger of bellicose small nations bringing World War III.

### ***Technology can Aid Mediation***

It is one thing to recognize an independent peacemaking role for certain nations on the Swiss model, and another to secure adequate access for these nations to world public opinion. If avenues of communication are dominated by narrow nationalism in each country, the effect of conciliation and mediation in settling disputes will be severely circumscribed.

Modern science, however, has created tools of enormous power for the enlightenment of minds through the world. A world-wide system of radio broadcasting to be operated by the United Nations was approved in principle by the General Assembly in 1948. Presumably any such system would carry the views of each member nation from time to time to the rest of the world, through broadcasts of General Assembly proceedings and special additional talks as needed. Here would be a parallel with the old Swiss custom of having delegates address the *landsgemeindes* of the older cantons. By carrying the views of the small nations to the

people of the large powers, such broadcasts would maximize the effectiveness of conciliation and mediation and undercut tendencies toward domination on the part of governmental "elites" wielding overwhelming military force.

Although lack of money has held this project at a standstill since 1948, its obvious potentialities make it premature to discount the effectiveness of conciliation and mediation in modern world affairs without giving full consideration to the possibilities of modern technology in building understanding across national borders.

### ***Indivisible Peace & Mediation of Civil Conflicts***

Communist ideology appeals to some groups in many countries of the Western world, and the events of October and November, 1956, in Poland and Hungary show that the roots of liberal democratic ideology are still strong in parts of the so-called Soviet zone. Already extremists are blaming Washington for not giving military aid to the Hungarian rebels, even though that would have opened the way to World War III. Unless decisive steps are taken in the direction of more effective peacemaking, civil wars will tend increasingly to become international, and of course a world war would bring revolutionary struggles in many countries.

Total war must be countered by the concept of total peace. It is vital to make peacemaking more effective as applied to major conflicts *within* nations as well as to conflicts *between* nations. Here again the Swiss experience is worth detailed study. The centuries of negotiation among the fiercely autonomous cantons on disputes raised by the peasant liberation movement and then by the Reformation and Counter-Reformation provide illuminating examples of what can be done in inter-state relations where there is a great and universally recognized premium on peaceful settlements.

Recognition of this significant premium would not, of course, mean that mankind would sacrifice freedom for peace. In Hungary, for example, freedom might have been saved if leaders had been able to appeal effectively for mediation by the UN or by a group including Poland and Yugoslavia, with a consequent strengthening of moderate elements. Communist as well as extreme rightwing maneuvers would have been subjected to the continuous and intimate scrutiny of representatives of other nations whose good will was important to the Soviets and to Western Europe. UN mediation, far from endangering either national or popular sovereignty, would have favored both, by exposing and defeating unconstitutional grabs for power. And even if it had failed in 1947, external conciliation and mediation in November, 1956, would have opened up possibilities of moving toward freedom in a more orderly and lasting way than the course which events actually took.

It will be objected that communist doctrine recognizes no neutrals, teaching that "he who is not with us is against us," and that it rejects absolutely any outside intervention, even of a conciliatory nature. But the peacemaking power of active conciliation can be crippled only partially and temporarily by rejection on the part of communist theoreticians, since modern international broadcasting prevents absolute control of public opinion by any national regime, however dictatorial.

The ebb and flow of world affairs will bring frequent disagreements, and an obdurate Soviet stand against mediation would in the long run help alienate peace-hungry satellite peoples from Soviet domination. By its very nature and its ability to take full advantage of the peace-mindedness of the people in all nations, mediation strengthens the moderate middle and weakens extreme stands no matter how bitterly their partisans may denounce the process.

The men of the separate Swiss cantons early recognized the value of an outsider's comments on policies pursued by their own officeholders – not only in disputes between cantons, but also in rebellions and other conflicts *within* individual cantons. Other cantons generally waited for a request from the government concerned before undertaking mediation of internal disputes, but this concession to cantonal sovereignty was not always maintained in the case of large-scale revolts. In these cases confederate mediators appeared on the scene whether invited or not – as in Zurich before and after the overthrow of Waldmann in

1489, in Basel in 1528, in Solothurn in 1533 and in Basel in 1833. Such interventions were based on the realization that the peace and order of the entire Confederation would be affected by civil war in one canton. Thus mediation came to be what might be called in a modern context "total" rather than being limited strictly to inter-governmental relations.

According to Usteri, conciliation and mediation were favored for the peaceful settlement of major conflicts within a canton because the alternative – arbitration – was looked upon by discontented subjects as merely the laying down of another law. Mediation and conciliation, on the other hand, brought the rulers *and* the ruled directly into the negotiations, with both modeling the form of the final settlement by helping determine which issues were most vital. Thus mediation protected the principle of the free consent of the governed.

The success of United Nations Mediation in Indonesia from 1947 to 1950 suggests its application in other colonial struggles. (The later difficulties of the independent Indonesian government may have been due to too little continuing UN advice and assistance, rather than to much UN intervention in the beginning. For instance, it has come to light that the anti-government terrorism of the fanatical Darul Islam sect has been carried out largely with British-made weapons smuggled in from Singapore. The difficulties of guarding a huge island chain against adventurers suggest that if the UN could have helped in establishing an effective customs patrol for Indonesia's sea borders it might have made an important contribution to post-independence stability and headed off the political drift toward mainland China).

Nations administering colonies claim, however, that international bodies cannot properly be concerned with colonial disputes because these are internal affairs for the colonial powers to deal with as they see fit. Even if, for the sake of discussion, one were to consider such conflicts as domestic matters, does not the Swiss precedent for mediation of revolts within cantons offer powerful support for conciliation and mediation by the United Nations – or by a balanced group of outside nations – in the case of colonial conflicts? An early settlement of the Algerian conflict by these means would have left France far stronger than it is today, to say nothing of the bloodshed and destruction which would have been avoided in Algeria. Would not such mediation, judging by the record of the United Nations to date, offer strong political defenses to the moderate middle groups, permitting them to end colonialism without falling prey to communism?

In under-developed countries subjected to the obsolete rule of large land-owners – where communism will very likely become a real threat sooner or later – could not United Nations mediation provide a democratic middle-ground defense against greedy landlordism on one side and communism on the other?

The juridical fiction that civil conflicts have nothing to do with international peace, if maintained, will tend to force mankind into a black and white choice between extreme right and extreme left, both of which deny freedom of expression, the worth of the individual and the other basic tenets of democracy. On the other hand, many persons rightly fear any invasion by the UN of each nation's right to choose that form of government which its people think best. Here it is important to distinguish between any UN power to make hard and fast decisions on the internal disputes of member nations and an authorization for UN discussion, conciliation and mediation in such disputes when they have resulted in major violence or threaten international peace. The Swiss experience, with its careful safeguarding of essential popular and cantonal sovereignty through centuries of mediation by the Diet in internal disputes, would seem to belie the contention that such mediation necessarily brings about the centralization of political power.

The waging of total peace will not mean a peace of stagnation, but a peace of lively controversy and inevitable conflicts of interest, made fruitful instead of destructive by an invigoration of the practices and institutions necessary for the peaceful settlement of those conflicts.

In the modern world peacemaking is the everybody's business that too often becomes nobody's business. The popular desire for peace is well-nigh universal, but finds such vague and disconnected avenues of expression that frustration and disillusionment follow. The

peace-mindedness of the people will continue to have limited practical value – and will expose each nation to the constant danger of communist diversion for its own ends – unless and until this hope and aspiration can center around definite, established practices and institutions.

The Swiss placed peacemaking on a nearly automatic basis, by custom and through provisions of their confederate pacts. Their example deserves careful study by all who are interested in combining peace with freedom in the world of the future.

## Appendix

The data assembled below, taken from the *Abschiede* or official records of the Diet, includes arbitral decisions only where the proceedings have also involved mediation, and does not include disputes between private individuals. In each case the parties in dispute are named first. In most cases the mediator was the entire Diet, but where a certain canton or cantons were appointed by the Diet to carry out the mediation, the names are put in parentheses following those of the contestants.

Mediations of disputes *between cantons* during this period included the following:

3 May, 1485: Lucerne, Schwytz and Unterwald vs. Uri (Zurich, Bern, Zoug and Glarus).

1485: Zurich, Bern, Lucerne, Solothurn and Fribourg vs. Schwytz and Glarus.

1486: Uri vs. Lucerne, Schwytz and Unterwald.

1486: Bern vs. Lucerne.

2 September, 1489: Zurich, Lucerne, Uri, Unterwald and Zoug vs. Schwytz and Glarus.

25 November, 1489: Zoug vs. Schwytz (Zurich, Lucerne, Uri, Unterwald and Glarus).

9 October, 1490: Zurich vs. Zoug.

5 June, 1492: Zurich vs. 7 old cantons.

22 May, 1498: Bern vs. Solothurn (Zurich, Lucerne, Uri, Schwytz, Unterwald, Zoug and Glarus).

The following mediations of civil conflicts within cantons or within communities outside the Confederation are mentioned in the proceedings of the Diet:

26 February, 1482: Basel.

2 November, 1486: Internal disputes in the Grisons. 15 June, 1489: Zoug (town vs. country).

1489: Overthrow of Mayor Waldmann of Zurich (All cantons, including Solothurn and Fribourg, included in mediating delegation. Second mediation was necessary, at which time delegates of each canton were permanently assigned there.)

26 September, 1489: Solothurn civil dispute (Bern and Fribourg).

The following disputes between cantons and outside communities or princes were mediated during this period:

1482: Zurich vs. Strasbourg

14 November, 1482: Zoug vs. count von Staufen. (Lucerne, Schwytz and Unterwald were appointed to stop Zoug's military expedition against the Count and to persuade Zoug to accept mediation by the Diet.)

10 March, 1486: Solothurn vs. Basel.

2 January, 1495: Uri, Unterwald and Schwytz vs. Constance. Spring,

1495: Uri vs. Constance.

23 March, 1496: Uri, Unterwald and Zoug vs. Constance.

17 December, 1499: Bern vs. Valais. (Lucerne, Uri, Unterwald).

Disputes of close allies of the Confederation with outside communities and princes were mediated as follows:

13 March, 1485: Stein vs. Diessenhofens (Zurich).

21 November, 1485: Valais vs. Milan. (Zurich and Zoug delegates sent to Milan, Lucerne delegates to Valais).

2 September, 1486: Grisons vs. Milan.

13 December, 1486: Schaffhausen vs. Count v. Lupfen.

21 August, 1489: Abbot of St. Gall vs. City of St. Gall and Appenzell. (The four cantons-Zurich,

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Lucerne, Schwytz and Glarus-which were by treaty the protectors of the Abbey, were placed in the difficult position of being called upon to suppress by force summary action for broader popular rights by the people of Appenzell and of the town of St. Gall. In the absence of Bern, mediation by the Diet failed, and then the cantons not involved-Bern, Uri, Unterwald, Zoug, Fribourg and Solothurn-asked the guarantor cantons named above not to call for military action, but to send delegates prepared to arrange a compromise. Delegates were directed to warn the Appenzell landsgemeinde to abide by the pacts. The four guarantor cantons could not accept the proposal made by the six disinterested cantons, and the Diet then decided that the four cantons should send delegates to talk before the landsgemeindes and burgher-gemeindes of the six. Finally Count George of Werdenberg mediated a settlement between the four guarantor cantons and Appenzell.)

23 April, 1491: Valais vs. Savoy. (Mediation started a year before expiration of agreement.)

26 November, 1492: Valais vs. Savoy. (Bern and Fribourg mediated on own initiative; requested Diet to write peace terms.)

25 April, 1494: Valais vs. Milan. (Lucerne and Uri directed to send embassy to urge Valais to accept confederate mediation.)

Recognizing their economic interests in peace between neighboring domains, the confederate Diet became increasingly active in mediating disputes wholly outside the Confederation:

27 October, 1490: Abbot of St. Gall vs. Constance. (Four cantons which had signed treaty to protect the Abbey undertook mediation: Zurich, Lucerne, Schwytz and Glarus.)

20 September, 1491: War between Holy Roman Emperor and the King of France. (After realizing that the conflict could seriously impair the supply of grain and wine, the Diet recalled that Bern had already urged confederate mediation a month previously. The record of this meeting of the Diet continues: "Since the ambassadors have not now the power to decide and the matter will nevertheless suffer no delay, it is recommended to the delegates of Bern that they act in the names of all of its, although at their own expense. All cantons who do not let Bern know within ten days, will be considered as agreeing to this.")

11 May, 1493: Emperor and Swabian League vs. Duke Albrecht of Bavaria. ("Every canton that wants to send its delegates should let Zurich know in writing by 25 May. Those cantons that do not want to send a delegation should give the others power to represent them. The delegates should meet and travel together. In case the majority of cantons agree, Zurich should write both parties immediately, asking them to halt hostilities pending arrival of the mission.")

Although it had no definite power to sign or overrule treaties on behalf of the various cantons, the Diet attempted to secure agreement on questions of foreign policy, and frequently directed one or more cantons to assemble their landsgemeindes so that all citizens could hear the points of view of other cantons. The Diet also concerned itself with safety on the roads and their maintenance, agreements on the minting of currency, the common defense, and the maintenance of internal law and order.

Interventions by the Diet may in some cases be considered mediation in the sense of securing agreement between different points of view within the Confederation, and some of the major cases during this period are mentioned below:

15 June, 1489: Rural cantons opposed cities' practice of giving burgher rights to favorites in country areas. Zurich, Bern, Fribourg and Solothurn insisted on retaining this practice. Mediation by Diet.

18 June, 1489: Diet appointed Lucerne, Uri, and Unterwald to persuade Schwytz to observe provisions of the Covenant of Starts on public order.

23 April, 1491: Uri and Schwytz warned remaining confederates against proposed treaty with the Emperor. Diet appointed Bern, Zurich and Zoug to send delegates to the Uri and Schwytz landsgemeindes urging them to rescind their official warning and accept the treaty. Uri and Schwytz, however, persisted in their attitude and started proceedings under the pact of 1332 to invalidate Lucerne's approval of the treaty. The Diet countered by directing delegates from the other five cantons to talk to the landsgemeindes of Uri, Schwytz and Glarus, urging them "not to divide themselves from their confederates". Finally Unterwald, as the one signatory of the 1332 Lucerne pact which was not involved in the legal case, was authorized to settle the matter.

29 November, 1491: All delegates were directed to attend the Uri landsgemeinde in order to persuade it to accept the proposed treaty with the Rhine Bishops and cities.

Spring, 1495: Confederate mediation of dispute between Uri and Constance, in an attempt to smooth the way for the entrance of Constance into the Confederation. Later Unterwald and Schwytz joined the case against Constance, and the Diet appointed Bern, Zurich, Lucerne and Glarus to settle the matter.

23 June, 1495: "Schwytz should call together its landsgemeinde and Bern and Unterwalden should

send ambassadors to explain common confederate concerns."

4 October, 1496: Following the Imperial decrees of Worms (1495), the Imperial Court of Chancery prepared to collect a new tax in Switzerland called the "Common Pfennig." The Swiss determined to refuse to pay it and the Diet called an emergency public meeting of all public officers of all cantons. Delegates to the next meeting of the Diet were also to appear before Obwald landsgemeinde to urge them "to remain loyal to the Confederation."

2 July, 1499: (At this time the cantons were at war with Austria and the Swabian League). Dispute between Uri and Milan. Diet urged Uri not to take any action against Milan "because we already have enough enemies on our necks." (Wir sonst Feinde genug auf dem Hals haben.)

## References

1. Published by Henry Holt & Co., New York, 1901, p. 363.
2. Published by Allen & Unwin, London, 1948, p. 54.
3. Pro Helvetia, *Nos Libertes: Bréviaire du Citoyen* (Lausanne: F. Rouge & Cie., 1941), p. 20.
4. "Si vero dissensio suborta fuerit inter aliquos conspiratos, prudenciores de conspiratis accedere debent ad sopiendam discordiam inter partes, prout ipsis videbitur expedire, et que pars illam respueret ordinationem, alli contrarii deberent fore conspirati ..."
5. Dierauer, Johannes, *Histoire de la Confederation Suisse* (translated from the German by August Reymond. Lausanne: Payot, 1928). Much of the general historical background for the present study was found in this five volume work.
6. Oechsli, Wilhelm, *Quellenbuch Zur Schweizergeschichte* (Zurich: Schultess & Co., 1886) p. 57: "Wäre auch das, dass sich eine Misshelligkeit oder ein Krieg Anhöbe oder erstünde unter den Eidgenossen, darzu sollen die Besten und die Witzigsten kommen und sollen den Krieg und die Misshelligkeit schlichten und beilegen nach Minne oder nach Recht. Und wen einer von beiden Teilen das verweigerte, so sollen die andern Eidgenossen dem andern zur Minne und zum Recht behilfflich sein auf jenes Schaden, der da ungehorsam ist."
7. Lasserre, David, *Alliances Confederales*, 1291-1815 (Zurich: Editions Eugene Rentsch, 1941), p. 26.
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9. *Amtliche Sammlung der Altern Eidgenössischen Abschiede* (Record of debates in the Diet) (Lucerne: Menerschen Buchrückerei, 1839) Vol. 1, p. 43, No. 109 (16 August, 1357) .
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14. Tschudi, op. cit., p. 657.
15. Lasserre has published the following series of illuminating articles on peacemaking in the Zurich War: *Educateur et Bulletin Corporatif*: 88:579, 644, 675, and 89:76, 104 (1952, Nos. 29, 33 and 35; 1953, Nos. 4 and 5). See also his article "Un Grand Anniversaire Neglige" in *Les Cahiers Protestants*, (Lausanne: July-August, 1950). Most of this material is reprinted in his *Étapes du Federalisme: L'Experience Suisse* (Lausanne: Editions Roncontrc, 1954).
16. *In Neutralität und Vermittlung Innerhalb der Alten Eidgenossenschaft*, David Lasserre, Ed. (Aarau: Verlag fl. li. Sauerländer and Co., 1946). This pamphlet gives concise commentaries on the conciliatory and mediatory roles of Appenzell, Basel, Schaffhausen and Solothurn within the Confederation.
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18. *Abschiede*, Vol. II, Beilage 34.
19. Tschudi, op. cit., Vol. II, p. 596.
20. Dierauer, op. cit., Vol. I, p. 354 et seq.
21. Segesser, Philip Anton, *Sammlung Kleiner Schriften* (Bern: K. L Wyss, 1879) Vol. II, pp. 1-120. An excellent account of the complex and significant negotiations of this period.
22. *Ibid.*, Vol. II, p. 62.
23. Meautis, Georges, *Nicholas de Flue* (Neuchatel: Editions de la Baconniere, 1940).
24. Lasserre, David *Alliances Confederales*, p. 70. The text of this provision is as follows: "If, in the future, we of Fribourg and of Solothurn are at war with someone and there is a possibility of a truce, a

peace treaty or an agreement which our dear and faithful confederates of the eight cantons or the majority of them may consider acceptable to our interest and to our honor, then we should as friends conform to their view of the matter."

25. Usteri, Emil, *Das öffentlich-Rechtliche Schiedsgericht in Der Schweizerischen Eidgenossenschaft des 13-15 Jahrhunderts* (Zurich: Verlag Orell Füssli, 1925).

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36. See Rappard's comprehensive centenary volume, *La Constitution. Fédérale de la Suisse: 1848-1948* (Neuchatel: A la Baconiere, 1948). p. 394.

37. *Message from the Federal Council of Switzerland to the Federal Assembly of Switzerland concerning the Question of the Accession of Switzerland to the League of Nations (4 August, 1919), Together with the Annexes Thereto* (Cambridge, United Kingdom, at the University Press), p. 88.

38. *Swiss Neutrality: Its History and Meaning* (London: Allen and Unwin, 1946), p. 22.

39. For a significant description of the role of mediation in providing a flexible means of peaceful settlement in another ideological context-industrial disputes-see Jackson, Elmore, *Meeting of Minds* (N.Y.: McGraw-Hill, 1952).

40. This period also marked semi-official Swiss participation in the drafting of a plan for a full-fledged international federation including legislative, executive and judicial organs. Albert Gobat, head of the Swiss delegation to the St. Louis, Mo., Conference of the Interparliamentary Union in 1904, helped launch the proposal, and in 1905 at the Brussels Conference, supported a more detailed outline. See Davis, Hayne, "A Parliament of Nations" in *Outlook*, New York, 79:21 (Jan. 7, 1905); and the record of Conference sessions.

41. Anniversary press release on the Congress, by Edith Wynner, secretary to the late Mme. Rosika Schwimmer, April-May, 1950.

42. *Message from the Federal Council* ...(cited above), p. 218.

43. *Ibid.*, p. 28.

44. *Ibid.*