

## MARGINAL NOTES

GERMAN WAR GUILT.—Some controversy has taken place in the Canadian press as to whether or not the German people as a whole should be held to share in Hitler's war guilt. We are inclined to think that those who have answered the question in the affirmative are right.

The phrase 'the German people as a whole' so used means nothing more nor less than the German nation. In political science the word 'nation' denotes a group of people inhabiting a territory within definite boundaries, and distinguishable from other settled groups by the fact that it owes sole allegiance to a government locally organized which exercises direct control over the conduct of each individual member of the community. In this way the nation takes on the character of a State, for, as Sir Paul Vinogradoff puts it, "the State may be defined as a juridically organized nation, or a nation organized for action under legal rules."<sup>1</sup>

As with the individual man in civilized society so with that impalpable thing Sophocles taught us to call the 'Ship of State,' the right to exist must be inviolable. Hence the violation of allegiance constitutes the most serious crime recognized by the State. But the ability of the State to punish treason and sedition is no guarantee of the permanence of the government. Whatsoever its form, government stands or falls by the will of the people; and the favourable disposition of that will is expressed in the general acceptance of the policy of the government.

Now so far as Germany is concerned Hitler assumed dictatorial control of the Reich in 1934, and his action in doing so was approved in a subsequent plebiscite by 90 per cent. of the electorate. Hitler and his ways and mentality were fairly well known to the German people at that time, and their practically unanimous acceptance of him as their *Führer* unquestionably makes them share in responsibility for his war guilt and his outrageous conduct in general. They are not to be judged individually as barbarians but in the mass—"la Société est l'union des hommes, et non pas les hommes."

Edgar Mowrer in his "Germany Puts The Clock Back" throws a vivid light upon how this astonishing event was brought about, but Lord Lothian's view of its causation enables

---

<sup>1</sup> Hist. Jur. Vol. 1, p. 85.

us to see that while the German people were misguided in bowing the knee to Hitlerism, in doing so they were animated by the patriotic hope of thereby attaining national unity. Lord Lothian speaks as follows :

National Socialism is the outcome of four years war, the Ruhr, inflation, and two revolutions in twenty years. It is harsh, brutal, ruthless. . . . But it has been strong enough to give Germany unity where it was terribly divided, to produce a stable government in place of weak and unstable governments, and to restore to Germany national self-respect and international standing<sup>2</sup>.

In considering the concluding words of the passage quoted it should be understood that they were spoken in 1934 and not in 1939.

But to the benevolent mind at least some extenuation of Germany's fall from the civilized grace that was hers in the later eighteenth and early nineteenth centuries may be found in the fact that her people were led by Prussian Kaisertum and Prussian Junkertum into the belief that her 'place in the sun' could only be won by her becoming a *Kriegsstaat*, and that her future must be that of world dominion or ruin—"Weltmacht oder Niedergang". Sympathy for the Germans in this their beguilement was expressed by Dr. Charles Sarolea some two years before the outbreak of what has been called World War No. 1. We quote his words :

We ought, no doubt, to make every allowance for the fiery outburst of German Jingoism. Germany is politically a young nation, and all young nations seem to pass through this malady of political infancy.<sup>3</sup>

But this plea for extenuation is somewhat tempered by Dr. Sarolea's further remarks in which he animadverts on the twentieth century *Realpolitik* of Germany as inspired by Prussia, and declares that it will be to future generations,—

An object-lesson showing to what extremities of barbarism even a great nation can be driven which ignores the fundamental principles of political morality and follows the will-o'-the-wisp of a perverted patriotism and an inflated imperialism.<sup>4</sup>

\*\* What has been said above we think not only attests the complicity of the German people in the war guilt of Hitler,

---

<sup>2</sup> See *The Times*, 31 Jan. and 1 Feb. 1934.

<sup>3</sup> *The Anglo-German Problem*. (Pop. Ed. 1915) p. 204.

<sup>4</sup> *Ibid.* p. 206.

but also their sheer stupidity in assuming that it is a *Machtstaat* and not a *Rechtstaat* that will attain glory in the New Age that is treading on our heels.

We have, however, further proof of all this in the following press despatch from Berlin which came over the wires on the 20th instant.

Prince August Wilhelm, fourth son of the former Kaiser and a Nazi storm troop leader, told foreign correspondents today that the Hohenzollerns are solidly behind Germany in the present struggle.

"My entire house", he said, "is absolutely against all efforts to injure Germany, and whatever is against the Fuehrer is against Germany."

He said "we were shocked" at the supposed attempt on Adolf Hitler's life at Munich Nov. 8.

How have the mighty fallen! The royal Hohenzollerns have cast away their Crown—that "polished perturbation, golden-care!"—and joined up with the Nazis. We recall that the annointed but exiled Kaiser Wilhelm II once declared—"I go my way; it is the only right one. Whoever shall prove an obstacle to the realization of my purpose, I shall shatter—*den zerschmettere ich!*" But he deemed it prudent to forgo the opportunity of shattering some one in 1918. Will he now return to Berlin and don a brown shirt with the swastika emblazoned on its arm? It would really be interesting to hear Wilhelm and Adolf jointly discussing Goethe's comparison of German culture with that of France in his time.

\* \* \*

MR. BURCHELL GOES TO AUSTRALIA.—We were pleased to learn during the Special Session of Parliament in September that the Dominion Government would appoint High Commissioners for Canada in other portions of the Empire than Great Britain for the purpose of promoting co-ordination of allied activities during the progress of the War. We were more especially pleased when we subsequently learned of the appointment of Mr. Charles J. Burchell, K.C., M.A., LL.B., of the Nova Scotia Bar, as High Commissioner for Canada in the Commonwealth of Australia. From a long acquaintance with popular reaction to the choice of men for official positions involving duties of first-rate importance, we are able to say that few appointments have been accorded the abundant measure of

approval extended to that of Mr. Burchell. The OTTAWA JOURNAL admirably expressed the position occupied by him in the public mind when it said: "Wherever Mr. Burchell goes he is a natural ambassador of Canadian good-will. . . . In Nova Scotia's distinguished list of men given to Canadian public life, Charles J. Burchell's name will be bracketed with the best. The Office of Canadian High Commissioner to Australia could be in no better hands".

We applaud this fine tribute to a man who is not to be numbered amongst those who deem it becoming *faire soi-même son éloge*, nor amongst those who look upon political pull as a sufficient qualification for public office. It is work—purposive and progressive effort—and not luck or favour that has brought him the distinction that is now his. He enters upon his new field of endeavour with knowledge and experience gained by intimate contact with matters of inter-imperial importance. He acted as Chairman of the Committee on Merchant Shipping Legislation during the Conference on the operation of Dominion Legislation and Merchant Shipping Legislation held in London in 1929, the report of his committee being reflected in the provisions of the Statute of Westminster, 1931 which has a distinctive place in the constitutional structure of the British Commonwealth of Nations. In 1931 he was a member of the Canadian Delegation present at the Conference of the Institute of Pacific Relations held at Shanghai. In a similar capacity he attended the Conference on British Commonwealth Relations held in Toronto during the year 1933.

With these antecedent lines of approach to the nature of the duties he will be called upon to discharge, Mr. Burchell's ability to administer successfully the office of High Commissioner for Canada in the Commonwealth of Australia is assured.

\* \* \*

"LATIN AS SHE IS SPOKE."—The words which Shakespeare puts into the mouth of Queen Katharine in replying to Cardinal Wolsey's advice concerning her divorce, "O, good my lord, no Latin . . . pray speak in English!" may many a time and oft have been quoted with advantage by counsel in the old days when the Bench was disposed to air its latinity even at the hazard of irrelevancy. On the other hand there are instances on record when the Bench has very properly used its knowledge to maintain the reputation of the Bar as one of the learned professions. These were occasions when counsel,

through carelessness or sheer illiteracy, had been heedless of grammatical accuracy in their use of legal maxims couched in the Latin tongue. One of these instances was furnished by Lord Justice Knight Bruce in a Chancery case heard before him. Counsel in the course of a long-winded argument — somewhat resembling that of Mr. Tangle's in *Jarndyce v. Jarndyce* with its "variety of points feel it my duty t'submit, ludship!" — quoted the maxim *expressio unius est exclusio alterius*, pronouncing the "i" in *unius* short. This roused the Lord Justice from the drowsiness into which he had fallen, and he exclaimed: "Unyus, Mr. ———! We always pronounced it *unius* at school." To which counsel replied: "Oh yes, my lord, but some of the poets use it short for the sake of the metre". "Even so", was the rejoinder, "but you seem to forget that poetic license cannot be invoked because we are *prosing* here!"

\*\* Adverting to the difference between the English method of pronunciation of Latin and the Roman and Continental methods, experience has shown that adherence by English speakers to their own method is preferable for the transaction of business in the courts and public assemblies where English speech prevails throughout the community, or is accepted anywhere as the medium of communication for a particular occasion. In his *"My Yesterdays: Here There and Everywhere"* Lord Frederic Hamilton tells us that on one historic occasion the use of the English method helped to avert a European war. His story is to the following effect. During the Congress of Berlin in 1878, Prince Gortschakoff announced at a meeting of the Plenipotentiaries that Russia intended to fortify the Port of Batoum [Batum] on the eastern shore of the Black Sea. This was expressly forbidden by Article XIII of the Treaty of Paris, 1856. On hearing the announcement Lord Beaconsfield rose from his chair and said that this contravention of the Treaty would amount to a '*casus belli*', pronouncing the Latin words in the English way. The incident was related with relish to Lord Frederic by Count Benckendorff, who had acted as protocolist to the Congress. Benckendorff said that no one present, with the exception of the British delegates, had the glimmer of an idea of what Lord Beaconsfield was talking about. They imagined that he was making some remark in English to Lord Salisbury, and took no notice of it whatever. Prince Gortschakoff later withdrew the claim to fortify Batoum. "But", observed Count Benckendorff, "just imagine the con-

sternation of the Congress had Lord Beaconsfield hurled his ultimatum to Russia with the continental pronunciation 'cahsous bellee'!" Commenting on this suggestion, Lord Frederic says: "Just picture the breaking-up of the Congress, the frantic telegrams, the shrieking head-lines, the general consternation, and the terrific results that might have followed! And all these tremendous possibilities were averted by our old-fashioned pronunciation of Latin!"

CHARLES MORSE.

Ottawa.

---