POLITICS

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BY

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FORMS OF CONSTITUTION

We have in this chapter to investigate the various forms which the constitution of a State may assume. We must, in the first instance, eliminate that false theory of the powers of the State which has long exercised a confusing influence on the science of government.

Aristotle says that in every State there is a triple source of authority : *τὸ βουλευόμενον περὶ τῶν κοινῶν, τὸ περὶ τὰς ἀρχάς,* and *τὸ δίκαζον.*

This scheme, called the " triaspolitica " of the Stagirite, was elaborated in the course of succeeding centuries, and has been more particularly adopted and distorted by modern political philosophers. After the Revolution of 1688 Locke evolved the doctrine of the division of powers. Following in Locke's footsteps, Montesquieu distinguished three separate authorities in the State —the legislative, the judicial, and a third called by Locke the federative.

Montesquieu describes it as that power which deals with matters inseparable from the law of nations : immediately afterwards he calls it outright the executive authority. Now the essence

of liberty is said to consist in the separation of these three authorities, which must never be united in a single grasp. This ideal was realized for Montesquieu in the England of his day, which in his eyes "reflected freedom as in a mirror." Rarely has a more stupendous error been enunciated; beyond all question it is precisely in England that this division was not to be found. It is indeed true that the judicial authority was in that country comparatively independent, and this caused Montesquieu's mistake. He was a scion of the old French *noblesse de robe*, or hereditary magistracy, which was able to display a certain stubbornness towards the Crown just because it was hereditary. Animated by this spirit, Montesquieu lays special stress upon the fact that the regular course of justice in England could not, as in France, be arbitrarily disturbed by means of *lettres de cachet*. The power of the Crown had, however, faded to a shadow: the House of Commons both made the laws and controlled the policy of the nation so completely that whoever had its confidence necessarily became the inspirer of England's foreign policy. In England, therefore, the exact contrary of this much-prized division was discernible; and if we contemplate modern constitutional monarchies we perceive that, wherever the Kingship is vigorous, as in Prussia, there also the division of authority is lacking. All authority in the state is centred in the King. Without his assent no law is valid; in his name justice is administered; his instructions direct foreign policy and internal government. And

yet how capricious is this division. How is it possible to speak of a purely executive office? Every administration not only executes but co-operates in the further development of legislation. As this fact came to be more and more realized a variety of further *pouvoirs* were evolved, primarily by French thinkers: a *pouvoir électif* alleged to be inherent with the electorate, a *pouvoir modérateur* with which Benjamin Constant endows the King for the purpose of reconciling the Chambers, etc. All this is merely the idle sport of ingenuity. This whole doctrine of the three authorities in the State and their division is the toy of theory and playful fancy. The essence of the State is its unity, and that State is the best organized in which these three powers are united in one supreme and independent hand.

Thus this separation is equally untenable both in theory and in practice. Far more satisfactory than this ancient doctrine is that which divides power into the constitutional and administrative categories. By constitution we understand the totality of institutions by which the unified will of the State is consolidated and expressed; the juridical character of the State, the division of classes, distribution of offices, and appointments, etc. Administration, on the other hand, is the aggregate of institutions by means of which the will of the State thus embodied manifests itself in the diverse relations of life. At first sight this is a purely theoretical distinction. As in the realm of thought in general, so here too we have to deal with elastic

conceptions. Many departments of State belong to its constitutional as well as to its administrative side. Whether the State is supported by universal military service, or a mercenary army, or a feudal army, is a constitutional question of the first rank, for upon its solution depends the character of the State, whereas the particular technical questions of the military organization are administrative matters. Again, in finance a sharp division would be found impossible. Is there a general liability to taxation? Are taxes imposed by the sole authority of the State, or in virtue of the taxpayer's vote? Is any person exempt from taxation? These are all weighty constitutional questions. The classifying of a tax as direct or indirect, however, falls within the range of administration. The essence of each separate institution must be sought: by this process it will become apparent that the country's army and finance belong to the administrative half of the State.

If we take a rapid survey of the different forms of constitution, the decisive point to determine is where the sovereignty resides, and in whom is the supreme and final authority vested? To this question also Aristotle has supplied an answer which has been adhered to through successive centuries. His simple teaching is that authority may rest either with one or several or many, and according to this distinction he builds up the difference between monarchy, oligarchy, and democracy. Instead of democracy he uses the word *πολιτεία*. These three ideal forms of government (*ὀρθοὶ τρόποι*), each of which

aims at the common good, may however degenerate, if the welfare of all be not sought and if power be selfishly exercised in the interests of those who wield it. When the *summa voluntas regis* is directly described as such; when it becomes absolute, then a tyranny or despotism has arisen. If the aristocracy governs in the interests of its separate aspirations, so that the rule of the best is transformed into the domination of a clique, an oligarchy has been established. If the sovereign people rules only in order to procure transient advantages for itself, then democracy becomes corrupted into an "ochlocracy." This word was not introduced until a later date: Aristotle himself describes the degeneration of his πολιτεία as "δημοκρατία."

This triple arrangement of Aristotle's was further elaborated in the course of centuries. To later generations it appeared superficial to distinguish between the forms of government only by the number of those who held power. In the search for principles Aristotle came to be amplified by Montesquieu. But Montesquieu's comments on the methods of differentiation between the three forms of constitution are, after all, only brilliant aphorisms which do not go below the surface nor penetrate to the core of the subject. He lays down that the principle of monarchy is honour, that of aristocracy is moderation, and of democracy, virtue. But why should honour be the governing principle of monarchy only? It might more accurately be asserted to be part of the essence of aristocracy which must cling to certain positive notions of

chivalry and honour. Similarly it is inexplicable why moderation should be the distinguishing mark of aristocracy; this could be said with far more truth of democracy, which must perish if it is not handled with cautious perspicacity. In short, at the risk of irreverence we must openly declare that no satisfactory result can be obtained by attempting to define the nature of a given form of government. If we search for the fundamental principle underlying these forms, we must approach the task in a political spirit. We shall here describe as the principle of a constitution that political idea, through the realization of which it has been created. If we consider monarchy in this spirit we shall perceive that its nature is unity. Monarchy arises when this idea emerges in tangible political form. When it is overstrained, that is to say when the ruler sets his individual will above that of the State, tyranny has supplanted monarchy. In the same way the basis of aristocracy is division into classes. The existence of different estates with different rights is assumed, and herein lies the nature of pure aristocracy. If the aristocratic conception remains vigorous and is carried into practice with skill it may conduce to the stability of the State: if it is carried too far, and the gulf between the classes becomes too wide, aristocracy degenerates and founders. The principle of democracy is equality. The ideals and illusions of democracy alike depend on the notion of the equality of all that bears human form. Nothing, however, is achieved by this ancient trinitarian division derived from Aristotle. It brings home

to us once more that his outlook on the universe was a narrow one and is no longer adequate for the study of the multifarious aspects of modern political life. One form of constitution of immense power which has determined the history of several continents through many centuries is absent from his schedule—Theocracy. Aristotle in his Hellenic pride of race disregarded its existence. To him the Persian monarchy as displayed before him in Europe was a mere corruption of Kingship. This was a radical error. With the double exception of Phoenicia and Carthage all Asiatic and North African states had a constitutional form, peculiar to themselves, alien to the free, open, and secular spirit of the West. Oriental states as distinguished from European can only be understood if it be remembered that in the East the revealed word is at the same time law and doctrine. We therefore must place theocracy, which for centuries has dominated Asiatic nations and many aboriginal states of Africa and America, in a category quite distinct from those already mentioned.

If, however, we examine these a little more closely it would appear that the great Stagirite is guilty even of a logical mistake. Are, then, the three categories—monarchy, aristocracy, and democracy—really co-ordinated? After all, it is clear that two of them are subordinate to a third and wider notion. Monarchy stands out in sharp contrast to democracy as well as to aristocracy, but these two latter have something in common and are comprehended in the jointly

applicable term of Republic. This distinction is not like one drawn by Aristotle—an external one; it is not based on the number only of the ruling class. Consider England in the days of the Commonwealth. Oliver Cromwell was the greatest and most powerful master she has ever had, and yet under his rule she was undoubtedly a republic.

The nature of monarchy is not summed up in the single fact that authority is concentrated in one person. Contrasted with a republic, authority rests on personal, not on delegated right. In the course of history this or that dynasty has risen to power and ruled by right of conquest. In true monarchy the monarch being actually sovereign can never subject his authority to any other, while in a republic power is delegated. It is delegated either by popular assemblies or aristocratic bodies, and the chief magistrate is then both ruler and subject. The true distinction between the monarchical and the republican form lies not in the fact that the former is ruled by a sole individual, but that in a republic the chief magistrate is both ruler and subject with no self-derived power.

Aristotle knew few monarchies, and those not of the most exemplary kind, while we have a very ample experience. It may in fact be said that Aristotle and Hellenes in general misunderstood monarchy. They start with the notion that monarchy consists in the rule of a single individual: then, naturally inquiring how one man can be placed so far above his fellows, they arrive at the conclusion that since only a semi-divine being can be

superior to all other men, a republic is a more reasonable form of government. This is Aristotle's view. It is simply a fundamental error. Why, we should be no better than Byzantine flatterers were we to say that our royal family is superior to all other families in this country. Neither personal excellence nor mental capacity lies at the root of the position of the house of Hohenzollern, but their distinguishing mark is that they are our Kings and stand on their own right and exercise a power which is undisputed.

Thus we discern three main types of constitutional form—Theocracies, Monarchies, and Republics. A glance over any considerable period or area will prove that this division of the subject is full of promise. Classical antiquity was republican in spirit, modern times have been monarchical. Theocracy has flourished chiefly in Asia ; in Europe this type was only represented by the Papal States, which are an anomaly amongst us. It will further be perceived that in recent times the daughter states of Europe have uniformly become republics for the reason that their political tradition has been broken. Modern America is in all essentials republican. We see, then, whole periods of history, nay whole continents ranging themselves in accordance with these categories ; the division, therefore, must be fundamental and essential. Unfortunately most of our constitutional text-books treat very casually of theocracies : they must be more deeply studied as an expression of the contrast between Western and Oriental genius.

If we compare our three chief constitutional

divisions we find that monarchy, by sharing some characteristics of the other two forms, takes a position between them. In common with theocracy its power is not derived but original. Theocracy rests its claim on an immediate and divine commission. Similarly, while discarding the mystical claim, monarchy appeals to the hereditary and historical right of a dynasty, which, once established, admits of no question. Thus these two types are placed in opposition to the Republic. From another point of view theocracy is at variance with the republican and monarchical form. The pious formula " By the grace of God " in no wise implies that the monarchy is the direct mouthpiece of God's will. It bears no mystico-theocratic meaning, but is intended only to convey that the authority of the monarch stands above all earthly power. Monarchies and republics alike embody the secular conception of the State.

Clearly it is impossible to formulate any ethical classification of these three types of government. No more can be said than that theocracy belongs to a period when men's minds were enslaved by authority. A people cannot become free and enlightened until the inspired word is not held to confer at the same time the right of compulsion. Theocracy can only flourish in the dreary chaos which such a belief brings into religious and political ideas, and therefore it may fairly be described as the most immature of all forms of government. This appears clearly when it attempts to assert itself amongst a free people : the grotesque nature of its claims is then obvious.

Of this the history of the Papacy is sufficient proof. We must, however, guard against attempting to establish an order of precedence based on merit as between monarchical and republican forms of government. To set out in search of a good constitutional form is from a scientific point of view a confusion of thought. The historian must be content merely to inquire what form is most appropriate to a given people at a given period. He will accordingly acknowledge a republic to be ethically justifiable where it satisfies the ethical requirements of a nation. Historians cannot without presumption say more, even of the best constitutions, than that, since the State is primarily power, that State which gathers authority most completely into the hand of one and there leaves it most independent, approaches most nearly to the ideal. On the other hand, one may say of the Church with equal force that her ideal is republican. Her power is rooted in the conscience of the faithful; therefore a republican constitution, which in some way or other leaves to the individual conscience a certain scope, while remaining itself the living voice of faith, conforms more closely than any other to the ecclesiastical ideal; whereas the Church, which is based on a monarchical pattern, deviates furthest from it.

All this can be laid down *in abstracto*, but a little reflection shows that the weal of nations rests but slightly on their form of constitution. It must be left to journalists to glorify the freedom of modern France.[1] Let us turn our

[1] Lecture delivered January 1893.

thoughts to 1848. In that year Piedmont enacted a statute which was almost literally copied from Louis Philippe's charter of 1830; and which is still the constitution of Italy. At the moment when the constitution founded on this charter perished ingloriously in France, it was adopted in Piedmont, and in spite of faults, has proved itself capable of survival in Italy. In the same way our Prussian constitution is known to have been modelled by the Rhenish Westphalian clerical lawyers on that of the neutral state of Belgium, and in spite of this stupendous mistake it has been developed in such a way that we flourish under it.

More than any other form of government monarchy has the faculty of rejuvenating and perfecting itself by assimilating borrowed institutions: in a word monarchy is the constitutional Proteus. This importation of foreign institutions is indeed also possible in a theocracy. There are theocratic monarchies as well as theocratic aristocracies, and in Israel we have even an illustrious example of a theocratic democracy. Nevertheless the nature of theocracy is to remain fettered owing to its limited capacity for adopting representative institutions. A latent monarchical power is also sometimes to be found in republics. Thus Carthage has its family of hereditary strategists, the Barcidi, a line of heroes sustained by democratic forces. There is a certain conflict between this peculiar institution and the nature of a mercantile oligarchy, and yet Carthage never ceased to be an oligarchical republic. Hannibal was taught by his own

tragic experience how curmudgeon was the spirit of that oligarchy which he called his native country. Exactly the same holds good of a monarchical office of modern times curiously akin to that held by the Barcas. Their modern counterpart is the House of Orange, in which the supreme military command was practically hereditary. Its career was part and parcel of the national life, and, supported as it was by the warlike spirit of the people, it was able to confront the aspirations of the great mercantile families. So long as the Stadtholdership did not actually become hereditary, Holland remained a republic, the power of Orange notwithstanding. And here again we see how little the constitutional form of a State affects the greatness of a people. When in Holland that happened which had been foreshadowed for three hundred years, when at last the family of Orange achieved the royal crown, what was the result? The constitutional arrangements of the modern kingdom of the Netherlands are more logical, lucid, and consistent than those of the Republic, yet who would place modern Holland on a level with the old glorious Republic?

The natural faculty of all States to perfect themselves by importing from others particular institutions is therefore considerable, but it is a dangerous error to correct by means of what Leibnitz calls "a mixture" the inevitable one-sidedness of all human endeavour. The defects inseparable from the main constitutional types cannot be pruned away by constructing a type of State which is necessarily hybrid. This false

method has played a disastrous rôle in times of political perplexity. Tacitus mentions a constitution thus concocted from aristocratic, democratic, and monarchic elements, but adds that it can be more easily invented than practised. All the same there have been men who have churned together what seemed best in a variety of institutions, and imagined they could give vital force to what they put down on paper. This Ciceronian way of proceeding is mistaken if for no other reason, because the most diverse States are themselves composite. Rome, the most logical aristocracy in the world, is called by Polybius and Cicero a mixed State. If it is conceived to be the duty of a great people to provide the pattern Constitution for an academy of professors, the old Holy Roman Empire would have been the most perfect of States. In my youth this was the generally accepted view. It is another symptom of the notorious muddle-headed German cosmopolitanism which, when apparently extinct, is always reviving. All States closely examined reveal distinctly where their true centre of gravity lies, and whether they are genuine monarchies or genuine republics. A mixed State belonging to neither kind does not exist.

Within the circle of these forms of constitution a further contrast may be perceived, and consists in the fact that monarchies and aristocratic republics pursue a definite and attainable end, while theocracies and democratic republics strive after an unrealizable ideal. The two former take their stand on certain actual circumstances

of reality, such as on the rule of a single individual supported by some section or other of the people, or by a whole nation determined to recognize a particular dynasty as its own. Such rule is not only possible, but a patent fact, just as the rule of a plurality is both possible and legitimate. On the other hand it is impossible, quite apart from our Christian beliefs, to admit that the Almighty intervenes directly in affairs of State. The experience of centuries has taught weak mortals that there is no direct means of ascertaining the divine will. Sooner or later theocracy runs mad and overstrains its own doctrine. The mystical edifice becomes top-heavy, whether by oracular pronouncements or supposed inspiration of the Holy Ghost, or whatever other lies priests may coin. A theocratic government must by exaggerating its own fundamental idea infallibly aim at realizing what is beyond realization. The same fact, unwelcome as it is in a democratic age, holds good of democracy, for the very notion of democracy contains a *contradictio in adjecto*. All governing implies the existence of the governed, but if all are to rule, who is to be ruled ? Pure democracy logically carried out makes for a goal as inconceivable as the goal of theocracy. Both have in common the abnormal tendency to compel an unattainable result. This may be seen in all radical democracies. All inequalities between individuals are to be violently levelled, so much so that a point is reached at which even sex distinctions are to be abrogated by enactment. For the sake of conforming to a principle every possible difference between

human beings is to be bludgeoned out of existence.

The sorts of constitutions we have hitherto examined are not the only ones into which the subject might theoretically be divided. So far we have dealt only with such divisions as apply to uniform States. Yet another distinction emerges when we consider the composition of States. It then appears we may have either the absolutely uniform State, or one which may be united with others. The latter is a complicated condition of things, since the nature of a State is unity and the various forms of union may be highly complex. There are fundamental unions such as Castile and Aragon, or States may be united in a purely external way, merely by the person of the sovereign. In this case the Allies recognize in common nothing but the sovereign and the enemy. So runs the accepted definition. But there are unions where even the enemy is not held in common. This might be said of the union between England and Hanover. The instance of Sweden and Norway shows that the personal union may also take a closer form, and it is hard to say whether this is not after all a fundamental union, since these two countries cannot legally separate and must have an identical foreign policy. Constitutionally Finland is united to Russia only by a personal tie, but owing to the brutality of Russian methods, the reality of the tie is different. And this relationship becomes still more momentous when a number of States constitute themselves into a federation. A variety of States may form themselves into an

association which is subordinate to its component parts; or again, sovereign States may resign their sovereign powers to a superior central authority, retaining only a portion of their prerogatives. The Swiss cantons and the United States of America may be cited as examples.

Lastly, we shall here concern ourselves with that most striking of all evolutions—a monarchy under federal forms which is our own Empire.

There are still other conceivable categories of States. One may proceed by the historical method and enumerate the vast theocratic monarchies of the East, the popular democracies of the Ancients, and the well-defined units which constitute modern States, but no system of constitutional history can be evolved by this method, which is suitable only to political history. Further, it is possible to differentiate States according to the ideal for which they strive. This arrangement was adopted by Leo in his treatise on the physiology of the State, in which he discriminates between sacerdotal States, military States, mercantile States, etc. This again is only the idle play of ingenuity, for it is precisely the characteristic of Christian nations not to identify their existence with a single purpose to the same degree as the nations of antiquity. An inexorable one-sidedness is a distinguishing mark of classical mentality. Hence Greek poets weary the modern reader by incessantly repeating the σωφροσύνη. Carthage was undoubtedly the mercantile State κατ' ἐξοχήν; not so the Netherlands, whose heroic history flourished side by side with a brilliant, artistic, and scientific expansion. Indeed, though con-

temporary England is solely swayed by the interests of her commercial policy, it would be doing her a grave injustice to suppose that her rich intellectual life is entirely overshadowed by the spectre of commercialism. Sparta was without doubt a warrior State, but what State in modern times can be so described without reserve ? Ignorant and hostile critics have often stigmatized Prussia with the epithet of militarism, and yet it is obvious that this conception entirely fails to take the measure of our national life.

We will discard all these classifications in favour of an arrangement by which our subject is divided into Theocracies, Monarchies, Republics. The next three sections will be devoted to the closer examination of these three forms of government.

XIV

THEOCRACY

EVERY theocracy depends upon the intermingling of spiritual and temporal authority. In this form of government spiritual laws are also *ipso facto* secular ones, and under it, divine revelation and the ordinances of the temporal State become commensurate terms. Hence theocracies are as a rule found where existence is viewed only from an ecclesiastical angle. It is one of the glories of the Arian race to have broken the bonds of this most terrible of all dominations. For us divine truth consists in the good tidings which make their appeal to the heart but do not strive to impose themselves by force as do the laws of men. To the Oriental, on the other hand, divine truth is a command resulting in that dismal slough of stagnation which characterizes the interior life of the East, and which contrasts so markedly with the Western predisposition to limpidity and liberty of thought.

It is very important not to disregard this essential difference, which I have not found adequately stated in any political text-book. It constantly happens that Oriental monarchies are spoken of as degenerate temporal States;

in fact they are something essentially different, namely, theocracies, whose potentates rule in virtue of a spiritual right which they neither can nor may abrogate. In all other respects, however, their power, because derived immediately from God, is without limitations. The conception formed of the Godhead is quite immaterial to the nature of a theocracy. Among the subjects of the Sultan a certain Kurdish tribe, the Jezidi, worship Satan. Through a variety of extraordinary interpretations of the old Persian dualistic creed, they have preserved only the veneration of Ahriman, and their sheikh reigns in the name of this secret diabolical power; consequently they are the most profligate of men. Nevertheless, regarded in a political light they constitute a theocracy, that is to say, a Government invested with supernatural authority and protected from all secular control.

It is a presumption on the part of modern society to forbid the State to interfere with the liberty of conscience. In our view the State is fully entitled to do so, although it would be madness to attempt it amongst us; it would meet with such resistance that it would have to acknowledge its own impotence. In the East the State has been able to rest for centuries upon the influence it exercises upon the minds of men, because there is nowhere the trace of a desire to assert individuality by means of rational thought. Theorists are generally of opinion that all men act in accordance with the dictates of reason. No such thing occurs to them; millions act according to the dictates of

obscure instincts, and feel perfectly content in consequence. In such a soil theocracy is a foregone conclusion and sure of a long life. Let us transport ourselves in thought to the realm of Eastern imagery which says, "A thousand years in Thy sight are but as yesterday." This can be said not only of Jehovah, but of the whole Oriental outlook upon life. Any one who has been in the East knows that the scene of Rebecca at the well is there constantly reproduced. Wherever the life and thought of the people is moulded in this form, theocracy may be considered a native growth and the securest guarantee of order. These people require to be checked and guided by something that can be called a divine revelation, and are entirely lacking in the critical bent and impetus towards action. The Turks are an example : ask any one of them as he sits cross-legged and smoking his chiboukh what he is really about, he will reply, "Thou seest, I sit." And yet we find amongst the nations of the East a marvellous wealth of the imaginative faculty, to which their immortal poems bear witness no less than does the perfection of their artistic taste. The exquisite patterns of the textiles of Kashmir have never been surpassed by us in spite of all our discoveries in aniline dyes.

The Oriental tendency to live in a world of dreams while craving for an authoritative creed, makes the further development and immense duration of theocracies a certainty. When a people is once imbued with this stifling faith and stagnant outlook upon life it is the ready prey of an obscurantist Government

which can count upon an authority and duration unrivalled in secular States. The sacerdotal States of Asia endure for hundreds and even thousands of years. If a people feels this form of rule to be beneficent no objection can be raised. It remains the duty of the historian to study such a phenomenon, even if he can only regard it as an abnormal aspect of human existence.

The loftier a creed is, and the more ready to foster a spirit of inquiry, the less readily will it lend its support to a theocratic constitution. It is characteristic of the Christian view of liberty to rebel against rigidity in the relations between the subject and the State, and any attempt to establish the direct intervention of divine will in this world's affairs is a patent lie to thinking minds. Lucid political thought leads straight to the severance between temporal and spiritual powers which is fatal to theocracy. The Papacy is the most elaborate but also the most immoral of all theocracies, because it subjects peoples destined to liberty to a yoke incompatible with the freedom of the spirit. We may feel that Oriental theocracies satisfy the ethical standards of the nations over which they rule, but we cannot extend the same generous latitude to the Papacy, which continually makes war upon the secular aspirations of a world more tolerant than itself. A theocracy must aim at repressing the spirit of free inquiry; it cannot do otherwise. Lip service at the very least must be paid to the revelation upon which the edifice of the State is founded. It is no easy matter to set limits to

such coercion whose rigour will always be modified by circumstances. Free inquiry into certain branches of science may indeed be permitted, although the results of unhampered research would, strictly speaking, be found to conflict with revealed truth. The Roman See has always been very liberal towards mathematics and astronomy, but will assuredly never loosen the fetters with which it seeks to bind those branches of science whose free development would endanger the theocracy. In the front rank of these scientific enemies stands history in its widest sense, towards which the theocracy must proceed with far greater caution than is necessary in its attitude to natural science.

Similarly the gulf which separates the ruled from the rulers must be immeasurable in a theocracy whose head, as we have shown, of necessity claims a sacrosanct character. As a rule theocracy tends to adopt aristocratic forms : in it the priestly caste will monopolize the Government. It is true that in Indian monarchies the King belonged to the military caste, but he was bound by the counsels of the Brahmins who were the virtual rulers of the country. Among the Israelites, although in modified forms, we find an influential hereditary priesthood. No less than these the Catholic Church has sought by means of ingenious and plausible contrivances, such as the celibacy of the clergy, to turn her priesthood into a caste which isolates it in the middle of civil society.

The aim of creating as profound a severance as possible between priest and layman is greatly

promoted by the mystical rite of ordination, which sets its irrevocable seal upon the candidate. A further consequence of the theocratic system is to exclude more effectually than under any other a vigorous participation of the people in the Government. A constitutional Pope and a constitutional Sultan are alike anomalies. In the early years of Pius IX. a certain benign disposition to reform was not lacking, but was cherished in vain. A Cardinal would cease to be a true Prince of the Church were he bound by lay advice.

The Teutonic knights were forbidden by the statutes of their order to consort with laymen. Nevertheless Henry of Plauen attempted to bridge the cleft between the celibate knights and the Prussians by means of a provincial constitution, but since the final decision of every question rested with the knights as representing the ecclesiastical power, the ultimate alternative to destruction was complete secularization.

It is contrary to the nature of theocracy to change and grow with the times, because it rests upon the immutable rock of revelation. Whenever a free and secular spirit, an active and critical reason, manifests itself amongst a people governed by a theocracy, that theocracy must choose between annihilation and radical change. Only a people destined to dream away its allotted course in perpetual drowsiness will permanently endure a theocracy. Amongst nations capable of progress, on the other hand, an original, indigenous form of government suited to primitive times can often be maintained under

more enlightened conditions only by falsehood and deceit. The whole world rings with priestly fraud and cunning from the time of Hafis and the Roman augurs down to our own day. In order to keep alive the dwindling faith in revelation they snatch at oracles and miracles, never yet disdained by theocracy, and a State originally pious becomes a travesty of holy things.

Of all the ancient theocracies of the East the most notable is the majestic sacerdotal empire of the Brahmins, in which as a rule we find a king, belonging by birth to the military caste, entirely subject to Brahminical law and guided in matters of conscience by a priestly Council. We are here confronted with a priesthood craftily employing the secular arm solely in support of its own domination. Constitutional order and religious concepts are here very closely intertwined.

The whole nation is divided into sharply-defined castes, and any infringement of this division is severely punished in the delinquent's after life; for here flourishes the theory of the migration of souls, that most ghastly fancy ever devised by the human brain in its most frenzied ravings, being an eternal circle which, as a rule, only leads the wanderer from bad to worse. A people possessed of such beliefs is checked once for all in its free development. Nor can it be denied that amongst the mixed races of the Indian peninsula stagnation soon set in; therefore the advent of Buddha and the spread of his doctrine of man's real mortality proclaimed a genuine liberation of the spiritual life. As the immortality of the soul preached by Jesus made

us free, so Buddha's teaching of the real destruction of the flesh may be said to have enlarged and illumined the warped vision of the East. This suffices to show what intellectual slavery overtakes men who allow themselves to be governed by a theocracy.

All powerful Oriental States, with the exception of the mercantile communities of Phoenicia, were theocracies. Appellations are immaterial, and Pharaoh may be truly called both King and Pontiff, although a high-priest stands at his right hand. In Egypt we find the fetters of theocracy so closely linked as to have annihilated amongst the people the very notion of a secular ruler. Alexander knew very well what he was about when he represented himself as Ammon, that horned divinity of the desert. And Bonaparte too, when in Egypt, fully appreciated the popular value of the saying, "A thousand years are as a day." The legend of Iscander or Alexander, the great Frankish Sultan who should return after a thousand years, was still alive among the people, and Napoleon on landing in Egypt was able to represent his arrival as the return of Iscander. Thus such nations require to be ruled. No people has seized upon the idea of a life to come with so much energy as the Egyptians. They were so absorbed by the glamour of a world beyond, that the tombs of their dead kings far surpass in splendour the palaces of their living successors. Faith in immortality was the secret spring of Egyptian history; all minds were dominated by the thought of the stupendous

Day of Judgment. When such is the mental attitude of a people, an exclusively priestly rule is inevitable. In Ethiopia, on the southern frontier of Egypt, a purely theocratic State, Meroë, long maintained itself. There government was under the immediate direction of the high-priest.

Likewise in Tibet, at a later date, Buddhism evolved the pure theocracy of the Dalai Lama, which, in its external form, so resembles the Papacy that the Jesuit missionaries who first visited that country in the seventeenth century described it in their reports as a diabolical imitation. There they found the same vestments and mitres, the same thuribles and clouds of incense; they beheld the Pontiff of the East, the thrice-crowned priests in snow-white robes. They were as yet unaware that most of the ritual ceremonies of the Romish Church are of Oriental origin.

The Hebrew theocracy is in its way the most peculiar of any, and for two reasons. For we find a religion superior to all its rivals through its uncompromising monotheism, and yet without belief in immortality. It is natural to suppose that some doctrine of a future life would be indispensable to a theocracy, since it gives the priest power to curse even the departed. But the history of Israel shows the fact to be quite different, for it teaches us that a definite belief in the immortality of the soul developed only at a late period, and the promise of earthly happiness contained in the saying "that it may be well with thee and that thou mayest live long in the

land" sufficed to maintain the power of the hierarchy. There is no parallel to this in history, and it is also exceptional to find democratic ideas of equality in conjunction with theocracy. This small people, fascinated by the idea of being the Chosen out of the multitude of the uncircumcised, regards itself as a nation of aristocrats; within its ranks, however, a strong democratic spirit prevails, and it is only outside them that inequality may be sought. The only privilege tolerated within this dead level of democracy was the right reserved to the tribe of Levi of exercising the sacerdotal office. When the elders of the people become estranged from the Lord God of Sabaoth, then demagogues and prophets arise to inspire the people with fresh zeal in the fulfilment of their national destiny. The prophets are only intelligible to political thought when considered as demagogues. Another characteristic sign of the spirit of Israel is solicitude for the poor and humble, as shown, for example, by the institution of the Sabbath. It is of course true that the actual conditions of life in ancient Palestine greatly diverged from the letter of the law contained in the sacred books. For does not the promised land belong to the Lord God of Sabaoth who will redistribute his own at the appointed intervals? These legal conceptions never died out, but it must be admitted that their practical execution at the septennial Jubilee left much to be desired.

Of all Eastern theocracies none appeals as forcibly to us as the Jewish, but it lacked expansive force; the Israelites have never excelled

in foreign policy. Such diminutive States must indeed be of small value if the State be rightly defined as power. From time to time the Israelites undertook wars of conquest, but with moderate success. As surely as patriotism is the foundation of all political greatness, so too a people without a mother-country will be deprived of true political genius, essential elements of which are valour and love of hearth and home. The bent of the modern Jewish mind is directly antagonistic to genuine political talent, and it is therefore nothing short of an outrage that Jewish influence should predominate to-day in our political press.

Of all the theocratically governed nations of the East the most secular-minded were the Persians, and it is exactly amongst them that we find institutions really capable of developing. No doubt they too regarded their king as a semi-divinity, immeasurably exalted above all his subjects; but he was not invariably surrounded by the priestly caste: the instruments of his royal will were warriors, and the organization of the State was so firmly knit together, that generally its protectorate over the small Hellenic States offered no menace to its integrity. The government of Asia Minor by Persian satraps may be adduced as the earliest example of regular and methodical administration. To a certain extent, then, the Pambasileus was a temporal ruler, but that the theocratic conception was not extinct we in the West have good reason to remember even to-day.

With the new dynasty of the Sassanides,

Persia, as we know, came into contact with the Roman Empire. Diocletian removed the seat of government to Byzantium and adopted the etiquette of the Persian Court, which has been gradually transmitted from Byzantium to the West; and it is only honest to admit that it does no credit to the boasted freedom of our Western atmosphere that we should still retain the theocratic formulae and ceremonies of the East. The exaggerated veneration due to a theocratic origin which we still pay to the majesty of the Sovereign is a deep stain upon our monarchy. Our courts have adopted forms and customs of social intercourse which do not bear the stamp of a free Arian, but rather recall the dreary monotony of Oriental slavery.

We may gauge the strength of Oriental theocracy even at the present day by examining the construction of a State whose institutions, while rooted in sheer rationalism, yet retain a theocratic outline. I refer to China. Few races have had less religious conviction than the Chinese. They are imbued with a dispassionate and prosaic spirit of inquiry; lack of tenderness and of imagination is a fundamental mark of this people, who are entirely absorbed by the sordid calculations of commercial life. And yet they are held together in the tight grip of certain superstitious ideas. Hundreds of millions of men regard themselves as a single family, the elect of God, ruled over by the Son of Heaven. The sanctity of the native soil is an idea no less firmly rooted than these in the national conscience. No Chinaman may be buried beyond the pale of

his ancestors if a dire destiny is to be averted from his kindred. Such a superstitious system of thought is essential to the theocracy: that it exists in China and that the power of the "Son of Heaven" is quite different from that of an ordinary monarch cannot escape the glance of a vigilant observer.

The colossal difficulty without which no theocracy can be transformed is illustrated for us by the recent history of Japan. Even down to our own time a government combining the dual character of spiritual and temporal authority flourished amongst this most chivalrous race, more closely allied to us Europeans than any other Far Eastern nation; Mikado and Tykom were to one another as Emperor and Pope. When about the middle of the nineteenth century their ports were thrown open to North American as well as to other traders, the great upheaval began; the truth of the saying *Sint ut sunt aut non sint* was made plain. It was not now a question of reform but of revolution in its most aggravated sense. Everything is changed down to the minutest details of life: the official language, dress, the calendar, the division of time. The hierarchy is transformed and enters upon a new phase.

The two most important theocracies for us at the present day are the Ottoman Empire and the Papacy. The former presents a curious combination of theocratic ideas and the military institutions of feudal monarchy. According to constitutional theory the Sultan, in whose veins flows the sacred blood of Osman, is the legitimate

successor of the prophet; no Mussulman can entertain the notion that any race but the Osmanli could reign over him. Even Mehemet Ali did not aim at dethroning the Sultan, but only at a Mayoralty of the Palace. Belief in the special sanctity of the blood of Osman is undoubtedly a strong bulwark of the State.

As the Lord's Anointed the Sultan may promulgate spiritual laws, which, however, may not conflict with the text of the Koran or its orthodox interpretation. In that abominable book bald judicial dicta are huddled together pell-mell with moral precepts, and in this medley the Oriental finds the complete subjection which he requires. Ablutions and temperance are religious laws, and any morality except one imposed from without is unintelligible to the Mohammedan. When a true Mussulman is converted to Christianity without thorough preparation, he ceases to wash and begins to drink.

The Sultan then is also bound by the Koran; he has in his train the Sheikh-Ul-Islam, a kind of confidential Pope, who may on occasion be consulted. Doubtless he calls himself "the humblest and most miserable of slaves," just as the Pope of Rome styles himself "servum servorum Dei," but in critical cases he utters the decisive word. When the Sultan appears to be in danger of infringing the sacred law, the Sheikh-ul-Islam may be appealed to, and it is notorious that his decision has often turned the scale in the choice between peace and war. In ordinary practice it is assumed that the Sultan neither can nor will exceed the

strict letter of the law. This theocratic ruler is invested in the name of the one true God and of His prophet with the proprietorship of all conquered territory. It is he who distributes the scimitars and the horse-tail standard; a small fief, or Timar, must provide a horseman, a larger one, or Sanjak, a whole company. This bellicose feudal monarchy is encamped in the midst of a multitude whose abject condition baffles description. Conversion of the conquered is not the primary motive of Islam: if it is attained it is welcome; if not, conquest suffices provisionally. In its view the universe is divided into the realms of Islam and of war: the one predestined to victory, the other to subjugation.

Humanitarian considerations are here irrelevant, the fact cannot be too much emphasized that they emanate from a purely Christian standpoint. The Oriental's exclusiveness and brutal hostility to strangers is irreconcilable with the notion of human brotherhood which is dependent upon the belief that all men are God's children. A Mohammedan cannot span the gulf which severs the believer from the infidel; to him all unbelievers are, in the words of the Koran, "swine with the same bristles, dogs with the same tails." In its political aspect the history of the Sultanate is particularly instructive, because it reduced tyranny and enslavement to a fine art, admired even by Machiavelli. Undoubtedly many of the traditional tricks of political management were handed down to the Turks by their Byzantine predecessors. They organized the whole Empire on a military footing and understood to perfection

how to subjugate the Giaour and to rule over the races of the Balkan Peninsula by pitting them against each other. Their first care was to rob the Christian population of the flower of its youth. The strongest and handsomest Christian boys were annually carried off to Constantinople, and after being forcibly converted and castrated were turned into Janissaries by a careful military training. A host such as the Janissaries overflowing with the fanaticism of the soldier and the zealot, is undeniably a powerful instrument of government, and for a considerable time they were in fact the best soldiers. They were the Sultan's standing army at a time when no other European sovereign had such a force at his command.

The Giaour, on the other hand, was forbidden to bear arms or even to mount a horse, because it was a fundamental principle to prevent military talent from developing in him, and even at the present day, in spite of all the honeyed talk about equality between Christian and Mussulman, no Christian serves in the Turkish army. The circumstance that the Turkish army is Mohammedan to a man exposes the patent falsehoods spread by the Turkish Government on this subject. The fact is that all the Prussian majors we send to Turkey are employed simply as drill sergeants, and are without real influence, for they too are " swine " and " dogs." In old times Christian troops were no doubt summoned in order to protect the baggage train of the armies, and still more to be flung in heaps into the trenches round besieged Christian fortresses, a

living bridge of unbelievers for the storming Moslem host. In this way and in no other does the Turk understand the military duties of his Christian brother, for his domination depends upon the suppression of other nationalities by the followers of Mohammed, and even more upon the dogma common to all theocracies that God's laws are unchanging. " Change is innovation and innovation the path to Hell," is written in the Koran. All these facts are not changed because the Sultan's weakness and the tutelage assumed over him by European diplomacy enable them to be hushed up.

It is to be hoped that the future will wipe out the scandal of having such a government on European soil. What, after all, has Turkish rule achieved during these three hundred years ? Nothing but destruction. Like an avalanche of rubbish they poured over the Western world, annihilating all they encountered. And yet no trace of their hundred and fifty years of rule in Hungary remains, except some ruined Christian churches and the hot baths of Buda. We know that theocracy is by definition incapable of development beyond a certain point. How resplendent was civilization under the Ommayades in Spain, at Cordova and Granada, and yet at a given moment it became rigid and was compelled to yield to the comparatively rude Christian races of the North, in whom lay the germ of expansion peculiar to their faith. The Turks have never developed at all, and in virtue of their innate lazy-mindedness have always remained a nation of soldiers whose courage indeed

we cannot but admire. It is the misfortune of a people who sees its destiny in the achievements of a band of mounted brigands to have been brought within the orbit of Western enlightenment. What are the celebrated mosques but imitations of the Hagia Sophia ? That Christian temple has simply been copied by the Turks. They are experts at embroidering slippers and covering façades of palaces with a kind of marble lace-work, and they are past masters in the decoration of festal apartments such as the great halls where the harem bathes. True architecture they have none. It is astonishing with what ingenious perversity they have transformed St. Sophia, that exquisite building, the perfection of whose dimensions seems to re-echo the rhythm of ideal proportion. On entering, what a sight ! As Mecca lies in a south-south-easterly direction, all the prayer niches have been shifted sideways from the centre. All church furniture, all carpets are askew and turned towards this corner : it seems exactly as if a party of drunkards had given everything a twist. That is the way Orientals bungle when they meddle with Christian concerns.

It was inevitable that the hollowness of Mohammedan rule, content with simple obedience, should in the course of time avenge itself, and we are to-day witnessing its gradual decay. The first warning has been given by the physical and mental decline of the dynasty. The Moslem is forced to make peace, and even a humiliating peace, with the infidel. The nineteenth century saw the dawn of an aspiration towards Christian ideals of civilization. We have here another

illustration of the truth that when at last Theocracy is roused from its long sleep to the necessity of change, reform is always found impossible. The alternatives of revolution, secularization, and conquest alone remain. We Europeans have learnt this lesson from the fate of the Sultan. Since Russia is the natural enemy of Western Europe, and the Sultan has come to regard the Czar as his most dangerous foe, it often happens that the Sultan is made to figure as the representative of Liberalism. There was once a time many centuries back when the Turkish Empire could with some justice have been considered democratic. For a nobility is unknown in the Empire: before the Caliph all are equal; it is only collectively that the mass of the faithful form an aristocracy as distinct from the subjugated droves of the Giaour, so simple are the class distinctions of the Ottomans. When in the great days of Islam they went forth to conquer and convert, it was certainly an alleviation for the vanquished when they adopted the Mohammedan religion. For it must be remembered that every convert from Christianity was released from feudal obligations. Hence in the sixteenth century the Turks were constantly received by the population along the Danube with emotions similar to those with which at a later period the Sans-culottes were greeted along the Rhine. Thus it is clear that the Turkish Empire at its zenith appeared as a liberating power in contrast to the feudal rigidity of Christian States. But there is no thraldom more abject than that of religious slavery. Personal

subjection to a feudal overlord is more tolerable than the collective subordination to which the Mussulman condemns the Christian herd.

Our century has seen a serious attempt to infuse European principles into the theocratic fabric of this Oriental State. A sober historical survey must recognize, however, that such reforms are merely so many steps on the road to further decay. Since Turkey has turned Liberal, as newspaper politicians understand that term, she has lost province after province. The destruction of the Janissaries, that decisive stroke by which reform was initiated, has proved itself a portent. Doubtless these kidnapped and converted Christian youths, who knew no home but the camp fire, became in time a fierce and dangerous Pretorian guard. Their forcible impressment was carried out with a refinement of cruelty well calculated to rob the Giaour of his best strength. Nevertheless, as things stood, the system, even with all its attendant horrors, was consistent. After the massacre of the Janissaries under the formidable Sultan Mahmud II., the ever illusory attempt to introduce European conditions of life was made. The capitation tax was abolished on paper, and the maxim laid down likewise on paper that Christians should serve in the army. The Sultan, however, saved the last vestige of a reputation for political insight by not committing the blunder of enforcing this decree.

Still more ridiculous was the plan of establishing the constitutional ideas of Western Europe on a firm footing in Turkey, for their indispensable

condition, which was a sense of nationality, was lacking. The population consists not only of Osmanlis, but of a hotch-potch of Mohammedans and Europeans of all sorts. Turkey is incorrigible, and will remain so in spite of all her fair promises. To feel convinced of this, one has only to know the habitual Turkish methods of transacting State business, and to recall, for example, the grotesque conditions under which the Hat-i-Sheruf of Gulhane was promulgated in 1839. When the Grand Signior appeared and all present fell flat on their bellies, the court astrologer stepped forth and proceeded to examine with his astrolabium whether the auspicious hour had come. As Allah graciously spoke the words, "It is time," the reading of the edict of liberty took place. A State capable of such proceedings will never change, but since some of the old martial spirit survives, and is renewed by drafts of seasoned troops from Asia, Turkey will in all probability remain in Europe until driven out by force. This view was expressed fifty years ago by Moltke, then a captain in the Turkish service. To us it appears that this entirely alien order of things cannot be reformed. The famous dogs of Constantinople are the best simile that can be found of a people mentally inert, but grown expert in the art of governing by centuries of experience. Those mild but sturdy animals sleep during the day, but at night perform spontaneously the functions of scavengers. If, however, it is attempted to tame one of them, he dies of a broken heart for love of his lost freedom. So also the Turk. Under the tent

in the desert he was in his element. That he has drifted into the toils of civilization is a tragedy that can only end in his annihilation.

The Papacy towers above the theocratic institutions of the West by the grandeur of a development peculiar to itself. In the early centuries of the Church, a highly centralized power was beneficent and necessary in resisting the crude encroachments of Arianism. Her formulae and doctrines have preserved for us the glowing ideals of a past age. The historic development of the Papacy typifies the growth of Christian theocracy and clearly shows how incompatible are its intellectual restrictions with the essential spirit of Christianity. It is distressing that the greatest oracle of Christian thought during the Middle Ages, St. Augustine, should have employed his genius to establish upon a logical basis the anti-Christian doctrine of the Civitas Dei : that the Kingdom which is not of this world is also the most glorious *in* the world. Among the liberty-loving peoples of the West whose march is towards enlightenment, such claims must in the long run provoke universal opposition. To secure victory the Church was compelled to forge an imposing panoply of spiritual weapons. The truth that Theocracy like Democracy pursues an unattainable ideal and is conscious of this fact, emerges with particular clearness from the annals of the Popes. From simple Bishops they rose little by little to be rulers of a Church claiming universal domination. And since the secession of the Teutonic nations, the encroachments of the Papacy have been so successful

as to make it possible for its crowning achievement, the doctrine of Papal Infallibility, to find acceptance in our own time. A Church of which one of her own ablest protagonists could say that her temporal authority was as obvious as the State of Venice must inevitably aim at theocratic absolutism. Her spirit is that of authority without condition or compromise, and she makes the word synonymous with Papacy. If it be assumed that all authority on earth is from God, and that God is represented by a man, that man must have supreme power. The logical interdependence of these postulates is so compelling that there is no choice between complete surrender to them and their collective rejection as heretical and tending to idolatry. Any attempt to find a middle course would be derisive; the failure of the "German Catholics" and of the "Old Catholics" would always recur and should serve as a warning. It is the glory of the Roman system to admit of only one answer: Yes or No. All is sacrificed to external symmetry, and the Ultramontane party is therefore not ecclesiastical but essentially political in aim; its only object is to rule. One may be an excellent clerical while rejecting all religious belief. One of the best known leaders of the Ultramontanes in Baden coolly said to me, an avowed antagonist not accustomed to the confidences of opponents, "For my own part I have no need of religious faith, but a final authority is necessary in this world, and the Pope is the only possible one."

If we consider the Church in the light of her

universal adaptability we must acknowledge her unrivalled skill in the art of ruling men. The features characteristic of theocracy become more and more pronounced. The enforced celibacy of the clergy goes hand in hand with Hildebrand's victories over the Emperor. The Byzantine bureaucracy formed the model for the admirable classification of the hierarchy, the apex of which was the College of Cardinals by which the Pope must be elected. In the days of Henry III. Popes were still made and unmade by the Emperor; within a short space of his death these conditions were reversed and the Imperial influence upon the Papal elections was entirely eliminated.

Concurrently with these events a dogmatic system was elaborated in the interests of priestly domination. By the most important amongst its tenets, the doctrine of transubstantiation, which established the power of the priest to create God, and his exclusive right to the cup, the gulf between priest and people, between a commanding and teaching Church and a hearkening and obedient flock, was so magnified that it could never again be spanned. Gregory VII. succeeded in freeing the choice of bishops from all trace of secular control. Celibacy and sacerdotal ordination formed, as it were, an impenetrable barrier around the priesthood, which happened to be the only professional class at a time when all other professions were hereditary, and therefore the ascendancy of the clergy was immense. The Church alone offered a career to every kind of ability; Gregory VII. himself

sprang from the humblest class of the people. The feast of Corpus Christi, the greatest solemnity in the Roman Church, is not celebrated in honour of the Saviour but of a miracle to the Host. It is the festival of the self-glorification of the clergy, and displays to full view the prostration of the laity before the ministers of the Church Militant. In Spain the Romish system is seen in its full luxuriance. Unlike the light-hearted Italian, the hard and morose Spaniard is a fanatic. In Spanish churches the clergy, seated in gorgeous stalls, occupy the entire nave, and from time to time a hoarse croak emerges from their midst. The laity is relegated to the side aisles, whence the altar is barely visible.

The interests of true monarchy were more and more counteracted by the ever-increasing expansion of a hierarchy which did not scruple to use faith as the vehicle of its own power. The issue could not be doubtful: since the Church's claim is based on Apostolic descent from St. Peter, it follows irresistibly that his legitimate representative must be the sole repository of spiritual power. This conclusion was finally proclaimed by Pius IX., and will in all probability be long maintained. As yet the Catholic world reveals no symptom of revolt against the Pope's infallibility.

This universal Church, in her attempt to set up a world-wide spiritual dominion, has sacrificed much of the true Christian spirit. On the other hand, the temporal States of the Church which formed the mundane basis of her power were conspicuous amongst all others only for the

misery of their condition. The first beginnings of the temporal sovereignty of the Pope, which endured only 650 years, were in a political sense as promising as its consequences have been disastrous. It is an historical fact that in the early part of the Middle Ages the Bishops of Rome were the Emperor's subjects. Subsequently they obtained possession of considerable tracts, but were unable to erect them into anything that could be called an independent State. Otho IV. was the first Emperor who recognized a territorial sovereignty vested in the Bishop of Rome, but the donation of Neuss is only one of the many political crimes which lie to the charge of this Guelph Emperor.

For a long period the Pontifical Government had immense advantages over its temporal colleagues. Since the only haven of culture was the Church, she naturally controlled nearly all the intellectual forces of the time. The Court of Rome was the first to maintain permanent embassies, and the Pope was therefore in possession of incomparably more ample political information than any temporal sovereign could dispose of. Moreover, while the rest of Europe still made payments in kind, Peter's Pence and the Annates flooded Rome with coin. A money currency is an immense instrument of power over those who know only the primitive practice of barter and exchange. The Byzantine Empire, deprived of vigour and genius, yet maintained itself solely by the finished technique of its administration and the excellence of its financial system. Its well-paid officials long kept at bay

the onslaughts of youthful nations. A similar process may be observed in the Papal States. The Emperor Frederick II. adopted the admirable administrative methods of the Moors; the Popes in their turn learnt from him, with the result that their Government became the most highly organized in Europe. Even during the exile at Avignon the traditional maxims were not abandoned, but, on the contrary, embodied in the so-called Aegidian Constitutions which were drawn up by Cardinal Albornoz as the permanent basis for the guidance of the internal administration and police. In 1356 these regulations might justly be called a masterpiece of wisdom. Unfortunately they were adhered to without intermission until the French Revolution, more than four hundred years later, when stereotyped reason had long since degenerated into absurdity.

Even the spiritual advantages of the Papal régime became attenuated with the lapse of time. A new superior secular learning rose into importance and everywhere displaced the old ecclesiastical type of scholarship. The increasing use of money relatively diminished one of the Pope's advantages; and when from the days of Martin Luther onwards Peter's Pence grew less abundant, a main support of the political structure of the Papacy began to crumble. As a result of the financial disorder the armies of the Holy See became notoriously the worst in the Western world. A remedy was sought in Swiss levies, which, however, failed to maintain the former strength of the Pontifical State. Since the Reformation the spirit of criticism had grown

apace, but although the general conditions were at length condemned as intolerable by the liberated judgment of a more enlightened age, no means of reconciling the warring principles were at hand. As recently as 1815 even Metternich saw the need of attempting serious reforms in the Papal Government. After the Italian disturbances of 1831 a conference of the five Powers was held at Rome, at which modest but impracticable proposals for reform were made by Bunsen on behalf of Prussia.[1] Since the traditional gulf dividing priest and layman, which is so indispensable to theocratic predominance, was carefully maintained as between the ecclesiastical and secular delegates to the newly-devised provincial assemblies, these bodies never attained the unity requisite for success. The priesthood as usual proved itself incorrigible.

If the Papal Government can be said to have deserved credit in the early days of its existence for its administrative achievements it was from the first the source of untold political misfortunes for Italy. All Italian patriots, from Dante onwards, have been the sworn adversaries of the Holy See. No doubt the Papacy was reckoned as a "gloria italiana," and as such soothed the national pride, though at the same time it hampered national unification. Come what might, no Pope could identify himself with purely national ideals. From time to time there arose a great Pope who was also an Italian patriot; such was Alexander III., perhaps the greatest of all Pontiffs, the redoubtable opponent

[1] Treitschke, *History of Germany*, vol. iv. p. 68 (Ed. 1907).

of the Hohenstaufen; and Julius II., surnamed the Terrible, who subdued Bologna and there set up his own statue by Michel Angelo as an emblem of his despotism. These Popes never completely attained their ends, but their history shows that Papal policy can only be identified with national aims within certain definite limits.

From the first the Roman Pontiffs played a double game, originally between the Goths and Byzantium, then between Lombards and Franks. The goal was always the same, the division of Italy. This territorial policy was effectively promoted by the existence of problems which divided the peninsula in half. As long as upper and lower Italy obeyed different masters the Popes inevitably leant alternately towards the Normans and towards the German Emperors. When the unity of Italy seemed to be in sight through the reversion of southern Italy to the Hohenstaufen, the Papacy became the implacable opponent of the Empire. Later, the policy of vacillation was still continued, and even during the Reformation the Curia could not be induced to side whole-heartedly with him who could have stemmed the tide of revolt. In this connection there is nothing more instructive than the controversies between Charles V. and that consummate Medician schemer, Clement VII. No sooner did Charles prepare to suppress the Reformation than the Pope began to fear a future predominance of the Empire, and true to his tacking policy opened negotiations with the French and even with the Porte. It is well known that when Gustavus Adolphus landed in

Germany at the opening of the Thirty Years' War his intervention was welcomed with joy by the Pope, because he feared that Wallenstein, if victorious, might march upon Rome.

Such tactics have from all time characterized Papal diplomacy, and have at last brought about the shipwreck of the temporal power. Towards the middle of the nineteenth century a group of high-minded enthusiasts, the so-called Neo-Guelphs, arose in Italy, and for a brief period transformed men's views of the political rôle which they believed that the Papacy might be made to play at the head of the national movement, much as the "Greater Germany" party believed that Austria would be the means of German unity. As Pius IX. at first appeared to be a moderate man, nationalist dreams were imputed to him, which, in fact, no Pope could ever indulge in. It was imagined that the party of unity could found a confederation over which the Pope would preside. Such was the programme when the war of 1848 broke out. On April 29, 1848, the Pope pronounced the decisive Allocution, in which he abandoned the nationalist cause on the ground that he could not fight against a Catholic Power like Austria. The Church's cosmopolitanism was thus irrevocably proclaimed, and a blow dealt at her prestige from which she has never recovered. At last the chair of St. Peter had to be protected by French and Spanish garrisons. Nothing brings home more clearly how blessed a deed despoiling the Church may be than a comparison between the vulgar monument raised by Pius IX. in memory of the

mercenaries who fell at Montana and the following noble words inscribed upon it by the Italian Government in commemoration of 1870: "We, who rejoice in the blessings of liberty, preserve this melancholy memorial of the Theocracy in order that our fellow-citizens may recognize the value of freedom and unity."

Since that time the Pope is placed in an entirely abnormal position, inasmuch as he still receives the recognition due to him as a sovereign, although he has been deprived of the territorial independence which in all other cases is the indispensable adjunct of sovereignty. Let it be supposed that an insoluble difficulty arises between the Papacy and another State. In former times Oliver Cromwell could despatch warships and reduce the Pope to submission by a demonstration on the coast. At the present day the Italian Government repudiates all responsibility for the political acts of the Holy See, but in fact protects an irresponsible Pontiff from any kind of reprisals. Coercive measures are powerless against him unless Italian neutrality is violated. In short, he is protected by a secular State which will recognize no responsibility for his acts. Here again the peculiar circumstances of the Curia are visible: two ways of improving its unsatisfactory position are open to it. It might follow the advice of the Jesuit Ventura, and silently become reconciled to the kingdom of Italy, a course which would offer great future advantages. As the clergy, to which the bulk of the people is much attached, is more patriotic than amongst us, it may be taken as certain that

if the Pope withdrew his prohibition and allowed the faithful to vote, a strong Papal party would soon arise. Another probable consequence would be that first of all the ladies, then the gentlemen of the Court would come under Vatican influence. For many generations the Princes of Savoy, after a stormy youth, have turned penitent in their old age, and this practice might quite conceivably lead to the virtual but indirect control by the Pope of Italian affairs. This effect cannot be counted on, for every Italian has such a capacity for enjoying the pleasures of this world that it is scarcely possible to imagine him priest-ridden. The other alternative open to the Pope, and in fact adopted by him, was to play the part of a prisoner ; a real farce, for no one prevents Christ's Vicar from going where he pleases. Great material discomfort has been the inevitable consequence, and being too obstinate to accept the civil list offered him by the Italian Government he is compelled to drain the resources of the faithful all over the world.

On close scrutiny this system shows signs of a certain consistency, for if the first alternative had been followed the Papacy would no doubt have been untrue to its inmost spirit. The Pope could not make himself master of Italy without bartering a cosmopolitan for a purely national mission. Hence even a mild and gentle Pope like Leo XIII. is completely inaccessible to any reconciliation with the Italian Government, and constantly renews his protests against it. The Church of Rome is determined to remain the world-wide Church, and therefore can never make any peace

with the sacrilegious robbers who have fortunately made their nest in Rome.

Amongst the minor Theocracies of Europe the Teutonic Order is the only one which can boast a creditable history.[1] From the very first its military constitution preserved it from the priestly influences which oppressed other ecclesiastical states, and a wealth of talent enriched its most flourishing period. It disposed of the intellectual attainments of the clergy, but was not in conflict with them. The Bishops were members of the Order, and hostility between Church and State was therefore an impossibility. Rome taught the Teutonic Order the value of permanent ambassadors and systematic finance. By means of exemplary thrift it amassed immense reserves of ready money at a time when its neighbours were in want. It irresistibly attracted all the spirited and ambitious youths of noble birth in Germany, and at the outset its statutes were so liberal that no test of pedigree was required for admission to its ranks. Members of the principal mercantile families of Hamburg, Lübeck, and Bremen were received without difficulty, efficiency was the only standard. The restraining test of quarterings was not applied until the decline set in. A contributing cause of prosperity was the expansive impulse innate in the German people to whom at that time the regions beyond the Eastern frontier were like America to-day, the land of Promise.

Thus for a short time the Order had at its command the most vigorous elements of the

[1] Treitschke, *Historical and Political Essays*, vol. ii.

nation. Already by the middle of the fourteenth century it had consolidated its power in Prussia, and established its control over one hundred miles of Baltic coast. Decay was no less rapid. The defeat of Tannenberg cost the Order all the glamour of invincibility which was half its power. Unlike secular States, such as the later kingdom of Prussia, the Teutonic Order lacked the internal recuperative forces necessary for its salvation as a State. It was theocratic in constitution, and therefore irreconcilably at variance with the spirit of the people over which it ruled. The laity, the native Prussian nobility, the dwellers in the towns all felt increasing resentment towards the foreign masters whose celibate condition precluded genuine attachment to the soil; the break-up of the State was hastened by appalling acts of treason. All attempts at reform after the great defeat, all attempts to enlist the lay elements of the community in support of the State as constituted by the Order, were doomed to failure when brought into contact with its Statutes. No remedy was conceivable except the revolution actually carried out by the last Grand Master, who, in 1525, transformed the ecclesiastical State into a secular principality, and to our perpetual benefit built a pillar for the foundation of the Prussian monarchy.

Compared with this military theocracy the paltry spiritual principalities of Germany, subject to the Roman obedience, assume a well-nigh ludicrous aspect. The infusion of Christian notions of almsgiving into the domain of law had terrible consequences. When the French

occupied Cologne one-fourth of its 40,000 inhabitants were registered beggars. The well-known saying, "It is good to live under the crozier," had no other meaning than that under its sway the mean man need do little or no work, for his wants would be attended to in any case.

The rise of these ecclesiastical States dates from the days of the Othos, who made use of the bishops in resisting their lay vassals. The bishops thus grew in power, and finally succeeded in acquiring territorial rights. It is worthy of note that these petty sovereigns were obliged to tolerate the existence of representative Estates. Almost everywhere we find a provincial assembly, whose assent and approval seems to have been sought by the prince. This was no doubt largely due to the fact that bishoprics were generally filled by the nobility, more especially after the Reformation. For centuries Cologne and other Westphalian Sees were occupied by Bavarian princes. Bishops like these of illustrious German blood could not become totally estranged from the nation. Although the old aristocratic clergy whose power was broken in 1803 was far more worldly-minded than the priesthood of to-day, it may be questioned, nevertheless, whether we have not good reason to mourn it. The princely scions of Wittelsbach and Nassau were after all attached to the country by a thousand ties of interest and affection; the modern clergy, plebeian and poor, is chained to Rome. Nevertheless the small German theocracies had become completely atrophied in the eighteenth century under their aristocratic rulers. Military establish-

ments were out of the question, and plans of reform, of which many were made, invariably proved vain. At last the "Reichsdeputationshauptschluss," as the final act of the old Imperial Diet was called, put an end to these States in 1803, without causing any one a pang.

The political effects of their system are felt to this day, and are clearly noticeable in the way votes are cast in the Rhine country. In any place that has belonged to the Palatinate both Catholics and Protestants vote more or less independently, while any district formerly in ecclesiastical territory is sure to vote for the clericals. In these regions it has in fact become extremely difficult for the Prussian Government to collect taxes. The iron grasp of Napoleon had been meekly endured, but when it became Prussia's task to establish a secular government by pacific means, the Rhinelanders began to count every farthing due to their Protestant king with a grudging parsimony that was both comical and petty. To them it seemed a fantastic innovation that such claims should be put forward by a temporal Government in peace time.

Thus the effects of ecclesiastical rule long remained perceptible in the customs and habits of mind of the people. But if we inquire what its permanent achievements have been, the answer is indeed a gloomy one. During the last hundred years under the old system, the people became so estranged from the national life that Cologne and Treves were entirely untouched by the intellectual revival of the time; the incorporation of the Rhenish provinces by France was at

first hardly noticed by them. The new currents of German thought were so unfamiliar on the Rhine when the Prussians entered Cologne and Bonn that the names Goethe and Schiller were totally unknown to the people. It is appropriate here to recall the impudent claims of the Catholic clergy to control education, an audacity which is all the more striking when it is remembered that the first elementary schools were founded by the King of Prussia. With the exception of a few dame schools and ambulating teachers no means of education whatever existed in rural districts.

Once more we meet those characteristic features of priestly rule, immobility and love of ease, which made these countries incapable of reform from within, and the predestined prey of revolution. A certain grandeur of conception and majestic consistency of method cannot be denied to Theocracy, but for modern nations the final conclusion must be that this form of constitution is doomed.

XV

MONARCHY

In direct contrast to Theocracy, Monarchy proclaims the essentially secular nature of all State authority. Doubtless primitive peoples have shown an inclination to trace their kingship to a divine origin, but the royal authority once established nevertheless bears a distinctly temporal stamp. Of this fact and of the fundamental difference which divides it from theocracy, monarchy makes no secret. The claim to rule "by the grace of God" is no more than a devout aspiration which does not attempt to formulate a mystical and spiritual right to power, but simply to assert that the inscrutable will of Providence has decreed the elevation of a particular family above its rivals. Piety is a fundamental requirement in a monarch, since the notion that he stands immeasurably above all other men may actually unsettle his reason, if it be not balanced by personal humility which compels him to acknowledge himself God's instrument. All this does not abrogate the axiom that it is the nature and aim of monarchy to be of this world. Genuine monarchy does not aspire to partnership with the Almighty.

On the other hand, monarchy stands opposed to republicanism. In a republic, authority is founded upon the will of the governed, while in a monarchy it is derived from the historical claim of a particular family, and concentrated in the will of one man who wears the crown and who, though surrounded by more or less responsible advisers, ultimately decides every question himself. It is idle to toy with metaphors: the minimum test of monarchy is whether or not the will of the monarch can be overruled. We are confronted by the conflict between unity and division. It is an ancient experience that monarchy presents more perfectly than any other form of government a tangible expression of political power and national unity. Hence its marvellous appeal to the average understanding, and to natural reason, of which we Germans saw such a striking example in the early years of our new Empire. For us the conception of a united Fatherland became incarnate in the person of our venerable Emperor. Our emotions when it once more became possible to say, "In this man Germany is one," were beyond all expression.

Nevertheless it is only a secondary feature of monarchy that in it authority resides in the will of a single individual; the primary consideration is that this authority is not delegated but original and inherent in him. One may, to use an expression familiar to the schoolmen, speak of the *aseitas* of royal authority, and the fact that this authority is self-derived produces a much higher level of social justice under monarchy than under any known form of republic.

Republics are less likely to be just, because all government is necessarily party government, and this contention is fully borne out by historical experience. Revolutions are caused not by hatred of monarchy, but of a privileged class. It is precisely to the monarch that the masses will turn for help against their oppressors. A king worthy of the name is so exalted above all private animosities that he can survey the struggles of parties and classes from an immense height. At the time of their greatness the French had a profound insight into the nature of monarchy, and it was a maxim of their constitutional law that the King at his accession suffered a *capitis diminutio* in respect of his legal personality; his private property merged in the Crown.

This is a maxim of first-rate importance when considered in the light of its ultimate consequences. In so far as monarchy bases its right on history it implies an aristocratic element: the claim of certain families to preponderance in virtue of an alleged superiority. History also supports the contention that a flourishing aristocracy is always politically competent and a support to the Crown. On the other hand, it is peculiar to all healthy monarchies to contain a strong democratic force. Raised above all parties the King is naturally drawn to the weak and humble amongst his subjects; as Frederick the Great said, "To be the friend of the poor has ever been the glory of monarchy."

Monarchy implies the idea of equal justice for all, which is realized in the person of the King. This is the cause of a phenomenon which appears

in all genuine monarchies, and which consists in the unlimited confidence of the people in the righteousness of their King. Even to-day it may be said with truth that in spite of all hostile agitators the mass of the people have more confidence in the Crown than in Parliament. The spontaneous judgment of average men who invariably seek a final cause will always discern in the King a manifestation of that self-sufficing power which typifies the *suum cuique*.

Furthermore it is possible for the monarch from the height of his exalted station to see further than ordinary mortals, who survey only a narrow sphere of practical life, and whose limitations are revealed by their well-nigh incredible prejudices. Class hostility is no less frequent in the professional and academic sections of the community than in the aristocracy; no class regards society as a whole, but sees only fractions of it, whereas it is obvious that a monarch is in a position to take a comprehensive view of the national life, and to gauge more accurately than any one of his subjects the rival forces which shape its course. Foreign affairs are particularly subject to this rule. A monarch is competent to judge of external relations in a manner far beyond the scope either of private individuals or of republican administration. A far-seeing policy is possible only to him who is the true centre of affairs.

In addition to this consideration it must be remembered that as a matter of fact all the royal houses of Europe form one great complexus of families united by innumerable ties of con-

sanguinity; and in this way monarchies obtain a great practical advantage recognized by all great republicans. Washington often and sadly declared it to be his experience that a sovereign people requires to suffer before it can be made to understand, and this dictum is confirmed by the War of Independence. Had the American people been guided by a right political judgment, that inevitable war would have broken out a generation earlier; but in fact it required to be forced into it by dire necessity. A monarchy is better able to foresee the future, and there is many a historical crisis of which it may be truly said that the decisive act could have been performed only by a monarch. Prussian policy up to 1866 could only have been carried out by a great king and a great minister, never by a republic. At that time only a small group, at Freiburg no more than five of us, adhered to Bismarck. Such was the extent of the public approval which is alleged to have supported him. He alone was able to accomplish what was necessary, in spite of the opposition of the people. Fortunately the great statesman possessed the gift of presenting things in such a light that every Prussian must feel in his heart that the honour of his country was at stake, and thus was infused into the struggle the impetus and vigour of a national war.

Amongst the other advantages of monarchy over republicanism must be counted the force of tradition. In a well-balanced monarchy the keynote of its character is expressed with peculiar force in the customs and conventions,

in short in the traditions of its public life, because the habits and circumstances of the reigning family are inseparable from the history of the State. This fact was symbolized with exceptional dignity under the old French monarchy, when on the death of a sovereign the principal officer of State broke his staff over the body of the dead Prince, exclaiming, "Le Roy est mort"; then immediately grasping a fresh staff, raised it over the people with the cry, "Vive le Roy!" The person of the sovereign passed away, the identity of the Crown remained intact. That even Homer was familiar with this conception is proved by his speaking of the imperishable hereditary sceptre of the King. Generally speaking, a fixed rule of succession may be regarded as a *conditio sine qua non* in monarchy, and it is facilitated by the recurrence in ruling families of certain hereditary characteristics. It is not of course an exclusive privilege of royal families to transmit their peculiarities from generation to generation, it is common to all men. Although the Hohenzollerns are a gifted race which has produced many individuals with strongly marked characteristics, yet it may be said of them collectively that they have been simple-minded people. With all his genius Frederick the Great had plain common sense which enabled him always to see the main issue. A long experience of affairs turns certain political opinions into hereditary habits of mind in reigning families: such was the origin of the efforts of the Hohenzollerns to bring about German unity. At first they sought it only as an expedient in

their own defence. By throwing in his lot with the Reformers the reigning sovereign joined a small minority, and was compelled to seek allies.

It cannot be denied that this stability of family traditions involves the danger of torpor and stagnation. There have been dynasties like the Hanoverians in England, so devoid of originality that one king can hardly be distinguished from the other. Or let us turn and contemplate the Hapsburgs. Everywhere we recognize the same stolid caste of features: one and all were priest-ridden. The house of Oldenburg, too, is remarkable in all its branches for uniform nullity. In the reigning branch the Christians can only be distinguished from the Fredericks by their higher numerals. Christian IV. alone was able to unseal the lips of the muse, and lives in the recollection of his people as the hero of whom the national anthem sings, "King Christian stood by the lofty mast." Notwithstanding, the dynasty was always beloved, for with all its monotonous mediocrity there was nothing repellent about it.

The danger of becoming stereotyped would be greater for monarchy even than it is, did not nature everywhere supply an antidote; the rivalry between elder and younger which exists in all classes of society is especially keen in these high spheres. No position in the world offers greater moral temptations than those which assail the heir-apparent of a great kingdom. It has long been a fact of experience that energetic and duty-loving rulers are especially jealous of their successor, and will not allow him the

slightest share in public affairs. The Emperor William I. made a point of gently eliminating the Crown Prince. When the heir to the throne in spite of his exalted rank is deprived of influence, he is forced into opposition which is bound to assert itself in a more or less questionable manner. No Hohenzollern has ever yet been of the same opinion as his father. This is the corrective which nature employs for our benefit against the evils of a too prolonged predominance, and which saves monarchy from that monotony which is the bane of theocratic rule. The individuality of the ruler has ever asserted itself as a source of renewed vitality, for his government and monarchy is no exception to the universal rule that personality is the decisive factor in history. Monarchy rests upon the profound belief, derided by all modern Liberals, that history is made by men. Whoever believes that the *perpetuum mobile* known to be an impossibility in the material order can yet be maintained in the realm of thought, will lean to republicanism and persuade himself that effects can dispense with a cause. Whosoever, on the other hand, takes his stand upon the conviction that history is made by assertions of the will, and therefore of the personality of individuals, will embrace the monarchical faith. Gervinus is the chief exponent of the doctrine that public opinion or general conditions develop themselves and constitute the sole cause of progress. This absurdity brought matters to such a pass that the force of a movement came to be gauged by the fact that no man of mark was found at its head. Gervinus

predicted a great future for the "German-Catholic" movement, because it proceeded from the people and because it failed to enlist the support of a single eminent man.[1] It failed precisely for these reasons. The more we penetrate history the more we are driven to conclude that it is a mere academic abstraction to speak of the evolution of circumstances. The indispensable factor in shaping events is personality. History is not made by rule of thumb. What succeeding generations call an historical necessity was once a complexus of circumstances, more or less favourable, upon which an individual will understand how to stamp his mark.

Far be it from me to minimize the claims of the economic view of history, but I cannot overlook that it takes only one aspect into consideration; and when it invites the conclusion that events shape themselves it leads the student into error.

The belief, then, that history is the outcome not of the brainless power called public opinion, but of the deliberate will of men of action, is the foundation-stone of monarchy. There can be no doubt that monarchy affords a wider scope than any other form of constitution to that force which no human ingenuity can tame, and which we call character. Although Frederick the Great's saying that monarchy is the best and worst constitution according to the disposition of the monarch, is an exaggeration, it contains a deep truth. A ruler's characteristics are of incalculable importance; not so much because genius

[1] See Treitschke's *History of Germany*, vol. v. p. 340, 5th ed., 1905.

is essential though always valuable, but rather because sound judgment is the indispensable faculty.

It has already been stated that the fundamental principle of any constitution contains the defects of its qualities, and this maxim applies with special force to monarchy; for kings are their own worst enemies. Their exalted position is a temptation to pride of every kind. There is a danger by no means remote that the moods and merely human foibles of the prince will receive the respect due only to the Crown, and that adulation, with all its demoralizing consequences, will ensue. If every whim of a capricious prince were to become law without delay, monarchy would be caricatured, and consternation would seize all free and generous minds. Arbitrary monarchs are compelled to resort to their enemies because they are abandoned by their friends. It must, of course, be remembered that much depends not only upon the real character of the monarch, but upon the idea which his people have of him. An immeasurable alteration in the general attitude towards monarchy has taken place even in my own lifetime. At the beginning of his reign Frederick William IV. was as much overrated by public opinion as his great brother was under-estimated.

Some monarchies have been especially favoured by fortune. Such were Prussia, Sweden under the Vasas, and Holland under the House of Orange. Others again have been particularly afflicted in their dynasties. Piedmont is the only State in Italy which has had good kings; while

unhappy Spain can only boast of two since Philip II. who can even be called good men—Charles III., who made a feeble effort at reform, and young Alphonso XII., whose premature death was mourned by our own generation. Monarchy is indeed strong when it has withstood the test revealed by Spanish annals. In France, Louis XVI. was an exception, but he appeared when it was too late to save the State. In England, after the line of blood-stained mediaeval tyrants had come to an end, the hereditary villainy of the Stewarts made way for the hereditary nullity of the Guelphs, and the whole presents an abject picture. How could a true monarchical spirit flourish in a country ruled by such kings? It is the special merit of monarchy to be easily understood and to adapt itself readily to the natural order of things. It fascinates the plain man to see a single figure at the helm on whose word all depends, and for such the term "Father of his people" has genuine meaning. When the crown is worn by a weak or a bad man nature is distorted; when the monarch is penetrated with a sense of lofty duty it is glorious to behold the purifying influence of his exalted office. Of such kingly manhood Prussian history affords us splendid examples in Frederick the Great and King William I.

Let us survey the career of Frederick the Great, who, after all, is the greatest king that ever reigned on earth. In early life he was an impressionable poetaster, full of dreams and fancies, a prey to sentimental reverie. On the very day when he gave orders for the invasion

of Silesia he composed an ode in praise of the peace of rural life. Suddenly the hero hidden within him stood revealed, and from that day forth the imperial instinct grew more and more pronounced. In his old age his whole being was absorbed by the care of the States he ruled, and this one solicitude banished all personal predilections and hostilities. During the last phase of his life he became entirely selfless and dominated by the desire to execute ideal justice. Such is the evolution of a monarch built on heroic lines. The Emperor William I. offers some analogy with his great predecessor, although the evening of his life was brighter. Already during his last years he seemed transfigured by the idea of his political mission, beyond the limits of which he cherished no personal aspirations or desires.

Monarchs of his stamp set the seal of truth upon the saying common to all nations, that the royal word is sacred. No doubt the expression is sometimes used in a minatory sense, but its primary implication is that loyalty to the plighted word lies at the root of monarchy. When John II. of France found that the humiliating terms of peace which he had been compelled to sign while a prisoner in England were rejected by his own people, he once more delivered himself up to his enemies, saying that when faith and honour had vanished everywhere else in the world, they would still be found amongst princes. Frederick the Great who quoted this saying fully endorsed it. The reason is clear. The sense of responsibility is weakened amongst men in proportion as it is divided. Parliaments are always more

unscrupulous than princes, because all their members shirk responsibility by throwing it upon each other, whereas monarchs are kept in check by the knowledge that their family's honour is at stake as well as their own.

But things are very different when the monarch is a weak and frivolous man, and the danger of his being such is the relative justification for the distrust of monarchy felt by the ancients. Plato, who had been tutor to Dionysius of Syracuse, and whose teaching was attended by the success usual to the practical efforts of great philosophers, has attempted to define ideal kingship. His definition made so deep an impression upon the mind of his contemporaries that they were driven to accept Aristotle's false conclusion that since men cannot be gods, monarchy must in practice always be an inferior form of constitution or παρέκβασις. The truth is, on the contrary, that a certain degree of mediocrity, provided it be not malevolent, as in the case of the Hanoverian Guelphs, is quite compatible with true monarchy, and when supported by tradition may even be elevated and dignified by it.

If we attempt to strike an average we cannot fail to perceive the profound truth that only democratic prejudice can attribute happier results to the elective than to the hereditary principles. Will any one seriously contend that the sovereign people's wisdom has raised better men to the presidency of the United States than destiny has placed upon the Prussian throne? At first eminent men came to the front over there, of whom the last was Lincoln; at the present day

only respectable mediocrities are elected. Election does not promote the men who have the greatest ability, but those who have the greatest following. All the prominent party leaders are so besmirched in the course of the frenzied struggle of democratic politics that they are scarcely thought fit candidates for the honours of the presidency. On entering political life every man must face the fact that, with the single exception of suicide, every conceivable crime will be attributed to him in the newspapers. At length, immediately before the election, an individual appears known as the "dark horse." Neither party has time to annihilate him completely, and a compromise leads to the election of a man of third- or fourth-rate ability.

It is, then, demonstrably clear that the vulgar passions which so frequently govern the electoral campaigns of democracy do not lead to a more rational result than the accidents of heredity. A prince becomes identified by birth and training with certain traditions, but the stability derived from this gradual evolution is necessarily lacking in the man raised to power by the vote of the people. From all time eminent men have treated the education of princes as a political problem worthy of the most careful study; and as princes have quite different duties to perform from their subjects, it has always been held that they should be differently trained from other men. It has been reserved for the Houses of Orléans and of Coburg to diverge from this immemorial precept. It may well be asked if the Orléans princes have become less haughty through their middle-class

training. It has left their inward pride greater even than that of other royal personages, and, furthermore, they received an inferior course of instruction. Princes have no place in public schools, where their position is bound to be a false one. Deceived by the same mistaken notion of liberalism, the Coburgs have followed the Orléans in an error of judgment which certainly will not be persisted in, and there will be a return to the rule that princes must be differently educated from subjects. Let us take an obvious example: it is an inevitable consequence of the innumerable family ties which connect modern dynasties, that a prince should speak three languages like a native. Why on earth should a young prince be bothered with Latin, let alone Greek? He has no place at a public school: it is enough to surround him with some youths of good family to excite his emulation and to counteract a sense of isolation.

When the reins of government are in the hands of a tolerably competent ruler, especially of one who is naturally humble-minded, even if only moderately gifted, the inherent strength of monarchy will be revealed in the close relation between the king and his troops. Nowhere more than in the army is there need of a supreme, final, and unrestricted will, and as the king alone stands above faction, no one can be more fitted than he to realize the idea of sovereignty by means of military command. It is the birthright of the king to be commander-in-chief, and if, in fact, he is born with a genius for war, no man can resist the conviction that in him mon-

archy has found its highest expression. A perfect military organization is undoubtedly an easier task for a monarchy than for a republic. A soldier swears fealty more readily to a visible chief than to a political idea. A king can employ the army without the slightest danger to the internal peace of the kingdom, while a republican general is always exposed to the suspicion of utilizing a victorious army for his personal ends. Such designs were not unfamiliar to the army of Washington. In modern France this point of view is perfectly well understood, and the conqueror of Germany would infallibly become Emperor of the French. Republics are therefore often obliged to take artificial precautions: Venice in her decline invariably employed foreign condottieri.

What is true of the army is equally true of the Civil Service. No republic is as well fitted to train competent public servants as a healthy monarchy. Aristocratic republics have also a relative latitude of choice, but dare not enlist all the talents, and must sooner or later become exclusive; a monarchy can afford to leave every man his rank and to establish a regular rotation by seniority. Such things are impossible in republics with the incessant alternation of election and retirement, and official incompetence is as frequent under democracy as are ability and integrity under genuine monarchical rule.

Monarchies, therefore, in which the succession is secure are distinguished from most republics by the beneficent calm of public life, and

the placid development of political institutions, simply because a definite barrier is opposed to the ambition of gifted and energetic men. Under a monarchy the question who is to rule is settled once and for all, and this fact has a special influence on the chiefs of the army. The pretorian spirit is an impossibility in a monarchy which is rooted in the moral convictions of the people. In a republic, unless its institutions are exceptionally ancient and dear to the hearts of the people, there is always a danger that some overmastering ambition will be fascinated by the desire to overthrow the constitution. The feverish unrest in France leads to the continual recurrence of the question whether this or that one will venture to make himself supreme master of the State. Old-established institutions may of course exist under a republic and have a similar influence as under a monarchy. In a republic as ancient as that of Switzerland certain constitutional notions have become as deeply ingrained in the mind of the people as monarchical conceptions are with us. In spite of intestine struggles, solidarity of sentiment between the Swiss cantons has always survived. Both after the fierce war in which Zwingli lost his life as well as after the Sonderbund war in our own century, the country returned with extraordinary rapidity to peaceful occupations. The stubbornness of a constitution hallowed by tradition in this case proved itself to be a source of unification.

All that has here been said in support of monarchy presupposes that the people subject to that form of constitution cherishes a strong

faith in the hereditary right of the dynasty, and the moral basis of its government. It is no less impossible to create a royal family than artificially to manufacture a nobility, but even a legitimate dynasty may easily forfeit its rights to the throne by its own misdeeds. The rights of sovereigns, as those of other human beings, are not imperishable. The whole history of France is monarchical, and while her principal institutions have remained so to this day, the pinnacle of the monarchical edifice is lacking, because the undoubtedly legitimate heirs of the immemorial house of Capet have entered the lists as leaders of faction and are now unable to assume the position of natural sovereign. That attachment to the royal person, that religion of royalty which once supported the old French kings, has disappeared without leaving a trace. That even such a race as theirs could ultimately lose the ethical right to make good its claim to power is a momentous warning to all rulers to put no illegitimate strain upon their hereditary prerogatives. The principle of heredity has a profound justification, but the intimate trust of a people in its rulers must constantly be earned afresh, and no dynasty can be certain that destiny does not reserve for it also the fate which has befallen the descendant of Hugh Capet in modern France.

Hence it clearly cannot be laid down that monarchy is necessarily superior to a republic as a form of government. A monarchy would be madness under the conditions which prevail in North America. All the essential conditions are lacking, and it is pure doctrinaire pedantry

to contend that the country would attain a higher level of prosperity by adopting monarchy. There will always be nations whose genius is ill adapted to find expression under monarchical institutions—witness the Greeks. Modern Europe is the home of true monarchy, which has always been rejected by the theocratic East, by the democratic Western Continent, and by the republican spirit of antiquity.

The infinite variety of type presented by monarchy, and the facility with which that form of government can assimilate extraneous institutions, makes it extremely difficult to construct any system of classification. It is, however, possible to distinguish six main groups of monarchy. Firstly, legendary monarchy, prevailing under aboriginal conditions. Secondly, feudal kingship, in which we include its emanation, monarchy limited by representative Estates. In this category monarchical forms have become so evanescent that it may be doubted whether mediaeval monarchy should not rather be described as polyarchy. Of these the former is the least mature but the most vigorous, the latter the weakest and most incomplete. Thirdly, elective kingship as known in Poland, which may be considered as the caricature of monarchy in its last stage of degeneration. Nothing is more instructive than to examine corrupt constitutions, and the example of Poland teaches us how a State should not be constituted. Fourthly, hereditary absolute kingship as known in France in the hey-day of her monarchy, or in Prussia before she had a constitution. Fifthly, constitu-

tional kingship, which presents so many varieties of form that they can only be comprised under one head for convenience. It is obvious that aristocratic as well as democratico-republican ideas frequently take refuge under the constitutional label. Lastly, a very peculiar form of kingship which stands on the very brink of republicanism, because it rejects the fundamental monarchical principle of heredity. Specimens of this type are found either on a small scale in the tyrannies of ancient Greece and of Italy, or on the grand scale in the Roman Empire and in Bonapartism. The sovereign people transmits its authority in some form or other to the tyrant, who governs by means of the personal sway which his vices and virtues have won for him over the people. The people, incarnate in one man, *l'homme peuple*, then reigns supreme.

XVI

EARLY TYPES OF MONARCHY

We will next examine some types of early monarchy. In doing so it is highly important to bear in mind that the most primitive form of early kingship has affected the great nations differently, according to the nature of their innate political bent. There are nations who have a natural aptitude for monarchy and who have therefore preserved it intact. In the beginning it was universal, for since it both implies and embodies the idea of unity, it is indispensable at least as a transition stage; it is further necessary almost everywhere, in order to secure unity upon an unshakable foundation as well as to force alien tendencies within the State to submission. Nor should it be forgotten that the young republics of the new world all have monarchical antecedents of considerable importance. The common law, trial by jury, the two-Chamber system, and the government of the country by individual administrators are all emanations from the monarchical period.

The political temperament of nations is revealed by the maintenance or destruction of these traditions. Purely temporal monarchy makes

its first appearance in history amongst the Greeks, but there can be no doubt that their true political instinct was for democracy. Unlike the early kingdom of Rome, the monarchy of Homeric stamp has vanished almost without leaving a trace upon subsequent history. At a later date we find the dual kingship of Sparta, but monarchical ideas, strictly speaking, are nowhere to be found in Hellenic institutions. So soon as the Greeks attained a clear consciousness of their national unity they are seen to incline towards Republicanism. Homer is a monarchist, and repeats a thousand times the oft-quoted line : *οὐκ ἀγαθὸν πολυκοιρανίη, εἷς κοίρανος ἔστω.* He speaks of the divine descent of kings, but this opinion must not be thought to arise out of a theocratic state of things, but rather to spring from the childlike tendency of a youthful nation to derive from the gods all that it reveres. The characteristic feature of Homeric monarchy was a peculiar blend of the elective and the hereditary principles. The crown became hereditary in a family because it transcended its rivals by wealth or warlike achievements, but on the death of the king his companions in arms chose as his successor that member of his family who seemed to them most worthy to fill his place.

A characteristic mark of Hellenic monarchies was the sharp contrast between their political importance and the magnificence of their outward display. No clear distinction had yet been drawn between the legal prerogatives of the monarch and the functions of the other authorities in the State. This is clear from the fact that

Homer designated the real sovereign Agamemnon by the very title of βασιλεύς, which was also given to his subordinates, chiefs of smaller districts. He wielded a huge power as their leader in war, and as supreme judge in difficult cases. But the relation of the princelings to him was so uncertain, and the notion of obedience so lax, that it is hard to imagine how obedience could be enforced by the suzerain once the campaign was at an end. Monarchy of this type presents rather the aspect of a confederation whose members are quasi-independent than of a single unified State ; and so long as the conditions of life in Greece remained pastoral as distinct from urban, the kingship was restricted to its primitive functions of leadership in war and of a final court of appeal. Of administrative affairs he knew nothing, for in the simple rustic conditions then prevailing administration was out of the question. The inner flaw of ancient Greek monarchy is then beyond dispute, and in addition it must be remembered that, notwithstanding the divine origin claimed for some of its regal families, the Hellenes were conspicuously lacking in that virile fidelity which the ancient Germans bore to their chieftains. Such a standard of manly honour must necessarily be unintelligible to a people who recognized in Odysseus the embodiment of their moral ideal.

If we turn our gaze from the Homeric to the ancient Roman type of monarchy we perceive clearly the whole difference between an agricultural and a town-dwelling community. It is significant that the Greek language possesses no

unequivocal word for justice. δίκη, δικαιοσύνη are capable of a moral and strictly legal interpretation. Greek thought was never entirely successful in formulating an original and adequate theory of political authority. Contrast with this the vigour with which even the earliest Roman kings developed institutions peculiar to their nation. It is undoubtedly true that the Romans preserved a strong monarchical instinct throughout their history. The *lex regia* was never formally repealed, and even under the Caesars the legal fiction endured in virtue of which the Imperator was subject to the *summa potestas* of the people vested in himself. The legendary kingship of Servius Tullius was invoked to provide a theoretic legitimacy for the Flavian Emperors. And yet in comparison with its Greek counterpart this primitive Roman monarchy reveals a great deficiency: it was not hereditary. The dead king's successor was chosen by the Senate after an interval during which an "interrex" conducted the business of State. But once the new king was installed, he far exceeded in authority the Greek βασιλεύς. He was possessed of the Imperium in its fullest sense; he had the supreme command in war; the right to pardon, and to punish with death; he not only rendered justice, but he interpreted and extended the law by his judgments. He was a high-priest, and at the same time exercised very far-reaching administrative functions within the walls of his City State. The power of these early kings may be measured by the magnitude of the oldest existing architectural monument of Rome, the *cloaca*

maxima, which is their work, and which presupposes a highly centralized authority capable of enforcing the sacrifice of domestic concerns to official requirements.

Nothing is more remarkable than the persistent way in which the royal office of primitive Rome continued to influence the history of her people. Not without reason have the consuls been described as kings for one year. The introduction of the consulship effected only two changes in the old constitutional order of things: the annual change of officers of State, and the balance of authority by its division between two equally entitled partners. The energy of the Imperium as understood by the kings was never lost, but monarchical ideas were preserved with concentrated intensity under republican forms, and it is not surprising that a return to monarchy should ultimately have taken place. Greece, on the other hand, was never able to achieve its organic reconstruction, but was compelled to import it from Macedonia. The Greeks were temperamentally republicans, the Romans monarchists, or, at the very least, mindful to preserve in the central authority a power most easily compatible with monarchical views.

The kingship of our original German ancestors is more akin to that of Greece than to that of Rome. This is quite in accordance with the fundamental nature of things, for in both cases the purely rural conditions of life restricted the king to judicial and military functions. As in Greece so in primitive Germany, the outlines of the monarchical State were at first fluctuating, and

its manifestations therefore various and unstable, but in spite of this it contained the germs of a mighty future. Something profoundly noble but at the same time fantastic and nebulous lay concealed in these ancient Teutons. Their mythology reveals a sublime and glorious insight into the divine which the Greeks never attained, and the notion of another life was strong in them. The weird personalities of their gods glide before us in such confusion that only one or two leave a distinct impression upon the memory, and as a whole Valhalla is not presented to our view with the same plastic clearness as Olympus.

The same fundamental characteristic is perceptible in the political sphere, in which we find evidences of a genius for government coupled with much unclearness of thought. Heredity was nowhere the absolute rule, but was practised conjointly with the elective principle. Some chief or other was presumed to descend from Wotan, and as such he and his family were held to be sacred and called upon to rule. But since leadership in war and military capacity were obviously required of the king, descent could not be an unconditional claim to succeed him, and the chief men of the clan raised the most capable amongst his family to fill his place. An element of instability was thus introduced, and also in other respects the type of royal authority might vary. We find at one time petty local kings, as amongst the Allemanni, and at another a more powerful king who raises himself to be their suzerain, and who stands in the relation of Agamemnon to the Homeric paladins.

Amongst the Anglo-Saxons it was not till a later date that the king emerged distinctly from amongst the Ældormen, and that he was able, although unsustained by the dignity of an hereditary office, to emancipate his authority from the traditional control, and finally to assume command of the State. Thus it may be said that the ancient Germanic monarchy, like the Homeric, was weak and immature. In the Teutonic character there is a fundamental strain of manly sincerity which contributed to the development of the originally imperfect monarchical institutions.

Already in primitive times, overshadowed as they are by myths and legends, we perceive that the king was leader in war and supreme judge in peace, but we also find the first germs of modern representative institutions. In some form or other the free-born German demanded to be summoned to all deliberations momentously affecting the State. The issues of peace and war were first debated in assemblies of minor chiefs gathered around the king; they were then presented for ratification to the host of tribesmen capable of bearing arms who mustered annually in March or in May. These meetings decided whether or not war should be waged the following summer. All this was very primitive and imperfect, but the elements of a representative constitution were traceable from the beginning, and, as Montesquieu with the instinct of genius has said, the cradle of constitutional government is to be found in the forest glades of Germany.

Brought into contact with Rome, these rude institutions were further expanded. Sybel is certainly quite inaccurate in asserting that Germanic kingship owed the attainment of its full vigour to the migration of peoples and to the conquest of Roman provinces. Long before these events the royal office had a recognized and legal authority, but Sybel is right inasmuch as they created for it a multitude of fresh problems and opportunities. Henceforward the king could not be restricted to his military and judicial rôle. It became incumbent upon him to organize an administration and to rule over peoples of alien blood. A code of personal rights came to be recognized. At first these barbarian princes decorated themselves with foreign titles such as Quaestor and Consul, much as the modern South Sea Islander fancies himself improved by donning a frock-coat. But the scope of their authority was gradually extended as fresh tasks occasioned by the conquest of towns presented themselves for solution; and though it is untrue that the monarchy was created by the necessities of a people on the march, it may not be too much to say that they gave an irresistible impetus to its activity.

The phases of this transformation were extremely varied, according as the migrating unit was an entire nation or a smaller group, *comitatus*. The latter had naturally not the same facility as the former in transplanting and consolidating their institutions. Thus Odoacer, so often described as the destroyer of the Western Empire, was not the king of a people in arms, but the

leader of a faction, a Roman captain who returned amongst the barbarians and founded a *comitatus*, and then succeeded in capturing the Eternal City, which he held for a short time. Even Byzantium, as its power declined, realized that the youthful Teutonic community which confronted it contained a political principle surpassing its own in moral value. "What shall befall the Empire," says Synesius in addressing Arcadius, "when you its rulers shun the cold of winter, garbed in robes of silk and adorned with peacocks' feathers; when you aim at being saints and fail to be men? If we are to be saved we need a God and a King." The Byzantine statesman felt instinctively that the Teutonic State stood on a higher moral plane, and was even more formidable than the Empire of the Caesars.

The fair beginnings of the Germanic Empire were strangely vitiated in the course of time. No doubt the Germans in their gradual conquest of Rome learnt much from her superior civilization that was previously unknown to them in the various branches of the art of government: perfectly to administer her vast territory was beyond their scope. Indeed we can trace in the great Frankish Empire a gradual disintegration which can only be described as decay. Since the immediate personal rule of the sovereign was practically impossible in the vast areas that acknowledged his sway, high officers of State invested with far-reaching prerogatives were appointed by the Crown, which rewarded them in the currency of the day, that is, with lands and vassals. This led little by little to the establish-

ment of feudal monarchy, which perfected the system of universal subordination by means of a personal relationship exactly expressed in the words of the oath taken by the Norman baron in swearing fealty to his suzerain: "I will be thy man for the fief which I have received from thee." Here the idea of the subordination of all subjects is obscured; instead the sanction of a personal relationship is adduced as the basis of a contract in virtue of which obedience is promised.

A State so constituted may, under certain circumstances, be extremely strong, as, for instance, the Norman monarchy in England during the first century and a half of its duration, which may be roughly described as a despotism under feudal restraints. William the Conqueror regarded the island he had invaded as his property in the literal sense: *terra mea, dominium meum.* A Norman host 40,000 strong attacked and subdued a profoundly hostile people; a completely new order of things was grafted upon the ancient stem of Anglo-Saxon institutions. The Norman lawyers were perfectly accurate when they laid down that all rights emanate from the king. His authority was further immeasurably increased by the power of declaring forfeiture of fiefs in cases of disobedience. This feudal monarchy, then, was immensely strong, so strong indeed that the Norman barons were at last compelled to ally themselves with the despised Saxon Thanes and yeomen in order to break the hated yoke.

But this example of a monarchy at once

feudal and absolute is quite exceptional, and its possibility was due to abnormal circumstances; as a general rule, feudal institutions tend to deflect the nature of monarchy, and to promote the creation within the State of a number of smaller sovereignties. The necessary attributes of office came to be regarded as profitable rights at the disposal of individuals and their heirs. By degrees the royal officers appropriated to themselves the specific functions of the Crown and became hereditary owners of the lands originally bestowed on them for life as fiefs. This progressive usurpation produced the barons in France, the princes in Germany. A number of territorial magnates sprang up subordinate only in name to the authority of the king, who retained simply the feudal overlordship with prerogatives as uncertain as those of true sovereignty are clear and precise. For men of to-day it is hard to grasp the ingenious view of law and right prevailing in that age, and an expression current in mediaeval Paris is characteristic of it. The French expression for satisfying a man by smooth words is to pay *en monnaie de singe*. This saying recalls the fact that although every man who entered Paris had to pay his penny at the gate, a juggler with a monkey paid nothing, but instead let his monkey dance before the gate-keeper. The amusement thus afforded him was held to have redeemed the debt to the city. So did that age think and feel, and gradually developed the amazingly distorted system of ideas which was characteristic of mediaeval civilization. The idea of individual

rights entirely outweighed the idea of the State, which well-nigh perished.

More especially in Germany we see the collective liberties of the separate Estates gain ground by means of a feudal doctrine entirely antagonistic to the State, which it has been the merit of modern absolutism to extirpate. In these monarchies based upon rigid class divisions, common law was almost set aside; each estate of the realm had its own special privileges which it was the object of its corporate existence to defend. The aim was freedom from the State, not freedom within it. The State was regarded as the natural enemy of individual liberty, as a power to be checked and muzzled, which must never be allowed to proceed an inch beyond the stipulated limits. Subjects did not look upon themselves as subjects but as joint parties to a contract. This appears with special clearness from the forms in which allegiance was promised. The new lord must swear to grant fresh privileges called "*joyeuse entrée,*" and every accession was made an excuse for their extension. This method was employed on a large scale by the Estates of the Realm in the Imperial Capitulations. Such compacts were sworn to by all parties, but their oath reached no further than the parchment on which it was recorded. The conception of duty existing *ipso jure* between subject and sovereign was nowhere apparent.

This stands in close relationship to the right of resistance, which was either formally recognized or practically exercised by the Estates. The Aragonese swore fealty to their king in

these words : " If thou wilt observe these statutes we will obey thee ; if not, not." In Germany we find the right of resistance guaranteed in several of the smaller States, such as Bavaria and Lüneburg. Thus it comes to pass that the majesty of the State, the fountain of law and order which as such never can be placed in a purely contractual relationship to its subjects, is mutilated and defiled, and it may therefore be truly said that constitutional monarchy as exhibited in England and in Belgium presents a negation of the monarchical principle. Hence it seems to us like derision when the ancient Estates of Germany are held up to admiration by self-styled orthodox monarchists.

On the occasion of the Congress of Carlsbad [1] in 1819, Friederich Gentz wrote a pamphlet entitled " Of the Difference between Representative Assemblies and Delegated Estates," which must be called a masterpiece of sophistical controversy. In this he contends that representative government depends upon the idea of the sovereignty of the people, which is not true, although it may be true that such rubbish has been taught by certain purblind theorists like Rotteck. In no genuine monarchy can the sovereignty of the people form the basis of its representative system. With that system Gentz contrasts the Estates alleged to be specifically German in origin, whose authority he derives from the consciousness of caste privilege, a consciousness which he considers disposes them to uphold the sacred rights of monarchy with more vigour than can be expected from any representative system.

[1] Treitschke, *History of Germany*, vol. ii.

This ingenuity in perverting historical facts is nothing short of amazing. Where was royal authority weakest at that time? Undoubtedly in Mecklenburg, where there was practically no monarchy at all. How Gentz could support so untenable a doctrine is explained by the fact that he had in mind neither the old Estates of Würtemberg nor of Mecklenburg, but the mandatory provincial assemblies of Austria. There prolonged struggles had completely undermined the power of the old provincial Estates, whose functions were now exhausted after three days' session: First day, arrival of their lordships in their state coaches; second day, unanimous adoption of the provincial mandate; third day, departure of their lordships in their state coaches. Gentz had before his eyes this specimen of the utter decline and decay of the provincial Estates when, with cynical disregard for historical facts, he laid down that provincial Estates do not impair the credit of the monarchy. Of course they do; and what is more, they make it their object to bring the sovereign to his knees. They regard their duty as strictly limited to the performance of their written pledge, and thus develop that peculiar stubbornness of attitude which not infrequently presents a dignified aspect. Of a true political spirit, however, there is no trace.

Profound social injustice characterizes the whole system, and the idea of the general good is lost in this oligarchical caricature of public life. The Law of Succession of Mecklenburg of 1755, which still subsists as a well-preserved mummy, expressly enacts that "the edicts which do not

affect the lawfully acquired privileges of the nobility and the provinces," but " which have been enacted for the common weal of the whole country, are laws of indifferent consequence." In the old legal terminology " indifferent " means that which applies equally to all and not to one class only, but the word is appropriate to Mecklenburg even in its modern and reproachful sense. Here the Diet with all the burlesque features of its composition has remained intact till the present day. Those of the Grand Duke's vassals who are of noble birth appear in person and represent no one but themselves. Regular procedure and orderly methods of business are unknown ; spectators may wander at pleasure into the middle of the assembly. When I asked a Mecklenburg noble if these visitors did not lead to confusion in the ballot, he replied, " Oh no, they are easily detected by the meekness of their bearing." Everywhere the Estates represent only their own class ; a conception of the general good, of solidarity of interests, in short, of nationality, are totally lacking under this type of constitution. For this reason revolutions in such States are never, properly speaking, conflicts of political principle, but more in the nature of lawsuits in arms. If the difference cannot be settled peaceably, recourse is had to arms. But the idea of establishing any new constitutional maxim was utterly alien from mediaeval minds. They fought for their acquired liberties and did not look beyond.

Any popular representation was then simply out of the question in those States of Germany

where provincial diets existed. Even the prince was not superior to the Estates; he represented only himself, and the group of unconferred prerogatives known collectively as "*jus territoriale*" were an aggregate of rights gradually acquired by him, not as sovereign but as territorial overlord restricted within the limits of his feudal suzerainty. The theory that the sovereign represents the nation as a whole was totally obscured. If Ludwig von Haller intended to set up monarchy based on Estates as the ideal constitution, it must be admitted that this positive aspect of his doctrine is entirely erroneous. Haller's great achievement was his attack on the doctrine of Natural Rights; in this direction he dealt mighty blows which even to-day command admiration. The moral courage required in his day for such a task can hardly be over-estimated by us. Haller's idealism, however, completely disintegrates the conception of the State. According to him the prince is no more than a very powerful landlord who has divided the land amongst his faithful dependants and bound them to himself by a contractual tie. It is clear, then, that Haller also took refuge in the theory of a social contract although on different lines, which logically excluded both the notion of sovereignty and that of the general good.

Hence it was the uniform rule in the old diets that the Estates did not represent the whole community but only its privileged classes. We nowhere find the peasantry represented except in a few districts of South Germany and on the northern coast where the population was purely

agricultural. Generally speaking, the only classes represented were the clergy, whose place in Protestant countries was taken by secularized chapters limited to noblemen; the nobility, who were regarded as protecting the interests of their tenants; and lastly, the towns, but amongst these only the Free Towns of the Empire. Moreover, the deputies of the towns were not representatives in the strict sense, but delegates, who received positive mandates curtailing their liberty of action. The representative character of the assembly was therefore very imperfect, and although the fiction whereby the nobility was supposed to represent the interests of its dependants sometimes corresponded with reality, it was in most cases a mere mockery, especially in later times. This form of Constitution therefore came to be especially abhorred. While absolute monarchy in more or less competent hands was often popular amongst the lower orders, they have always regarded monarchy based on the Estates with peculiar hatred. Is it not notorious that the popular fury displayed during the French Revolution was directed chiefly against the clergy and the nobility? Had it been possible at the right moment to found a democratic monarchy the storm would probably have been avoided.

The injustice and inequality of this form of class-representation is proved by its whole fiscal system. As a matter of general rule it is true that the lord of the manor paid no taxes on his land, but it is well to avoid the distorted picture dear to modern Radicals, and to remember that the territorial aristocracy bore all the burdens

of local administration and justice. The conditions were certainly primitive, but it is impossible to maintain that the landed gentry of Germany were at any time so exempt from public dues as it is the fashion to contend to-day. They were expected to give their blood, not their treasure, for the prince. Payment of taxes was not recognized as a universal duty. On the attack of a foreign enemy, the capture of the suzerain, or the marriage of his daughter, levies were raised; in all other cases taxes were regarded as the badge of serfdom.

It is curious to observe how long ancient notions of law derived from the Romans continued to subsist amongst us. The Germanic conqueror of Roman soil was free from taxation as a matter of course; he had acquired his land at the point of the sword, and was, moreover, an agriculturalist who rarely saw ready money. Taxes were for the Romans, who were the more oppressed because secretly admired. Such archaic conditions could only be stamped out after a severe conflict. It is a misunderstanding of German character to ascribe the dislike of taxation to avarice, which is not one of its characteristics, so much as a tendency to live from hand to mouth. The aversion to taxation is in reality the aversion felt by free-born men to the symbol of subjection. This point of view was encouraged and maintained under altered conditions by the circumstance that money was scarce in the Middle Ages, and the collection of dues often impossible. Although with the rise and development of the science of economics the need of regular fiscal arrangements

became imperative, still the Estates continued to regard the grants made in the light of voluntary aids. Supplies must be begged for, and it was held to be within the competence of the Estates to vote or to refuse them.

This state of affairs led to a curious dualism in the management of the exchequer. In this matter the legal theory, so much admired by Haller, was that the prince must meet the ordinary expenses of the government out of the revenue of his private domain, and was only entitled to appeal to the Estates under exceptional conditions. The Estates provided against such emergencies by creating a fund raised out of taxes and intended to supplement the Treasury in extraordinary cases. This twofold Treasury system was the rule from the sixteenth century onwards, and survived in Hanover until 1833, when it was suppressed. It was restored by the *coup d'État* of 1837, but was finally abolished in 1848. In Mecklenburg, on the other hand, it still continues in a modified form. The Grand Dukes of Mecklenburg are sovereigns upon their immense estates, beyond the boundaries of which they have absolutely no power to levy taxes except in virtue of the carefully appropriated grants made by the Diet.

This type of monarchy, though imperfect, may, however, under favourable conditions attain to a high level of prosperity, as shown by the example of Sweden under Gustavus Adolphus, and his immediate successors. But her strength lay not in the combination of monarchy with representation by classes, of which even the

peasant delegates formed one, but in the fortuitous talent for government of a succession of individual kings, and above all in the fact that universal military service was introduced as early as the reign of Gustavus Adolphus. Fiefs from the Crown were forfeited by all who preferred domestic interests to military duty in war time. The male population was annually exhorted from the pulpit in the king's name to join the colours ; and so arose in rude form the obligation to bear arms.

Thus it happened that Sweden, through the ability of her rulers, for a time at least, reaped the benefit of a well-balanced Constitution, to the essential merits of which her sudden pre-eminence, and her temporary superiority to the German States at this time must in no small measure be attributed. Our nobility, it must be remembered, adhered to the old notion that its sole duty was to take the field as heavily armed cavalry ; when that went out of date it remained passively at home. Hence the defencelessness of a monarchy, based on Estates, in its later days all the more ominous because in essential conflict with the fundamental principle of that political system. After all, the feudal monarchy as limited by delegated Estates was dominated by the nobility ; it was by definition aristocratic, and the characteristic feature of healthy aristocracy has from all time been military prowess. As paid infantry replaced the feudal cavalry in war, the special function of the aristocratic caste disappeared. Individual gentlemen could no doubt take service as officers, but the contingent they raised amongst

their dependants no longer had military value. Thus arose the repulsive anomaly of a predominantly civilian nobility.

Moreover, to grant to the local suzerain supplies necessary for the upkeep of a standing army was a larger sacrifice of constitutional liberties than could be obtained. In this way the nobility of Brandenburg, always distinguished for valour, was directly responsible for the defencelessness of the country at the outbreak of the Thirty Years' War. The Elector George William may be said to have had no army whatever; for the contemptible handful of bodyguards and troopers which he collected at such pains were useless when pitted against the military efficiency of the vast armies controlled by Austria. The ridiculous impotence in war of the German Electors which enabled Sweden to intervene in her affairs as their protector must be laid at the door of the various Diets which would never tolerate the idea of the *miles perpetuus*. Standing armies and regular taxes, which had come to be the two bugbears of the landed nobility, were finally established by the Great Elector at the expense of violating constitutional liberty. It was inevitable that the idea of uniform taxation should at last take root, and to-day we see clearly that in this change lay the earnest of a great advance towards freedom.

From what we have said it must be apparent that no free spirit could feel any enthusiasm for the political conditions of the old order. They produced hard stubborn characters and stiff-necked men like the Great Elector's contemporary,

Ludwig von Burgsdorf, who typifies the Junker class at its best. What it may be at its worst Königsberg learnt from the Kalksteins. A supreme example of this attitude of mind towards the State was known to our century in the person of Baron von der Marwitz, whom Hardenberg was compelled to imprison out of hand at Spandau for the violence of his opposition. If this spirit was narrow it was also firm, and nothing is more inaccurate than Radical chatter about aristocratic servility in Brandenburg. The contrary is the fact and holds good also of Mecklenburg, where the nobility, though indisputably narrow-minded, is conscious of its independence and determined to preserve it.

Another feature of monarchy limited by aristocracy was to encourage a certain sort of egoism which, like bribery and nepotism, flourished under its sway with peculiar luxuriance. Chartered rights were only too often made the opportunity of oppression by landlords against their tenants, and there was urgent need of a hand strong enough to compel these gentry not to press the letter of the law too far. Nepotism, which is not characteristic of the nobility only, but of all close corporations, was universal, and we find it no less firmly rooted in Würtemberg under the auspices of a purely middle-class parliament, well known to have been the worst in Germany. The noble families of Wurtemberg, although in many cases they had altered their status by gaining admission to the chivalry of the Holy Roman Empire, still readily entered the service of the reigning prince, but no longer

as his subjects. Therefore the Diet was composed almost entirely of assistants who were doctors of divinity and of clerks who were attorneys. The whole body was collectively designated as honourable, but none the less pillaged the State by corruption and place-hunting as consistently as any assembly of nobles. The final result of this form of Constitution is, taken all in all, a deeply disappointing one, especially for us Germans, for it proved to be the nursery of our innate provincialism.

It is well known that Frederick the Great was the first to establish an interprovincial code of rights applicable to all his subjects. Before his time a native of the Mark could not enter public employment in Cleves, nor a Rhinelander in East Prussia. In this connection it is interesting to note how these old provincial conceptions continued to influence our own time, and that as late as 1815, Rhinelanders, for all their boasted liberalism, were incensed at officials from East Prussia being appointed to posts over them. They recalled with bitterness that even the Great Elector had given a solemn promise to the Estates of Cleves to give no places to strangers.

Suddenly these ancient doctrines came once more to the surface. Ultimately representative institutions were adopted all over Europe, and it is instructive to trace their evolution in certain States from the old conditions. In France all bridges leading to the past have been broken down, and the ancient monarchy destroyed beyond repair. In England, on the other hand, the outward forms of the traditional order never

entirely perished, and under their protecting cloak a feudal assembly has gradually been transformed into a modern parliament. England's extraordinary stability is due to her feudal monarchy having early been very highly centralized, and to the king having always retained control over legislation and the administration of justice. For this reason her parliament never could become the dissolving and dangerous force which it has been in other States. As early as 1352 English law had developed and incisively formulated an entirely native doctrine of high treason. By such means does a State arrive at consciousness of its own dignity, and thus does it become aware that the violation of its constitution is not an act comparable with an infringement of a private right. The following century reveals, even in Germany, attempts to formulate the obligations both of sovereign and subject towards the State, in the interests of the commonweal; examples from the history of Brandenburg are Frederick I.'s Act of General Pacification and the *Dispositio Achillea*, which laid down the inalienability of the national territory. Such arrangements conflicted with the spirit of the feudal monarchy, for if the country was originally the property of the prince from which he had from time to time made grants to his vassals, then he might also partition it by will.

It is significant, however, that the continental jurists did not discover their doctrine of High Treason for themselves, but borrowed it from the Roman Law, and generally speaking their maxims are found to be in sharp contrast with

the organic development of English constitutional history. As already stated, the modern Constitution of France is connected by no link with her past, and the same may be said of Spain, whose present Constitution is entirely the creation of political theory. During the Middle Ages Italy remained a land of cities, whose republican tendencies prevailed over representative caste tendencies, which never reached any high level of maturity. At last Italy too adopted a Constitution on the French pattern, devoid of national antecedents. Germany stands half-way between England and the Latin States. Our country was always so rich in currents and counter-currents that political problems have rarely admitted of a direct solution, while complex remedies suggested themselves with inevitable urgency. The time-honoured contrivances of the aristocratic State were not abolished but died of inanition. The old social divisions lost all power and all sense by standing armies and regular taxes. An additional blow to the old system was the erection of Committees which in most States superseded the Diets themselves. None the less the old traditions remained alive and were still traceable with certain modifications long after 1815 in the Upper Chambers of our early Parliaments, especially in the minor States. It is most striking in Saxony, where the Upper House, though altered in a few unimportant points, is still composed entirely of the old spiritual and temporal Lords. But the continued influence of the old conception of constitutional freedom is also clearly perceptible in the political mentality

of parliamentary radicalism. Even Rotteck is at bottom a political thinker of the old school penetrated by the conviction that individual liberty must be protected from violation on the part of the State by contractual guarantees. Even at the present day the opinions of Radicals, when not thorough-paced Democrats, bear the impress of French Jacobinism combined with that view of liberty so characteristic of the old order, which regarded it as the privilege of a class.

This political structure was dominant for centuries, and still casts its shadow over Europe. Though it be impossible to sum it up in a few words, we may yet say with confidence that it has brought no blessing to any country, least of all to our own. Monarchical authority amongst us at last declined so entirely that the essential justice inherent in its nature was reduced to impotence, the privileged classes assented to the exploitation of the poor and humble. Patriotism fell into decay, and the State, conceived simply as an organic agglomeration of private rights, was united by no bond of ideal aspirations. Provincial Diets often proceeded to measures of open treason like the Prussian League, which in 1440 actually placed Western Prussia under the domination of Poland. Not long after, in 1460, the Provincial Councils of Schleswig and Holstein chose Christian I., King of Denmark, to be their suzerain, and thus inaugurated a connection destined to last four hundred years. Even this transaction revealed the jealousy felt by the provincial Estates of their class privileges, which

they strained every nerve to preserve intact. It may be said then that the frenzy to uphold class privilege not only caused countless minor dissensions within the Empire, but directly contributed to bring its Northern and Western Marches under foreign rule. It is the peculiarity of this view of society that while resting upon a supposed contract it has always failed to discover any secure basis for authority; under such conditions no adequate idea of the State is possible. This will appear even more clearly when we come to consider elective monarchy pure and simple, which is the παρέκβασις of monarchy limited by privileged Estates. It often happens that nothing throws a clearer light upon the fundamental principles of a Constitution than its caricature; and the comparative method may therefore lead more quickly than any other to the perfect understanding of the essential nature of monarchy.

If for no other reason elective kingship is clearly proved to be a corrupt specimen of true monarchy by the fact that it almost invariably arises out of violent conflicts. To establish the reasonableness and necessity of the hereditary principle in monarchy seems, as Dahlmann once said at Frankfort, like pronouncing a laudatory oration in honour of the multiplication table. Only a king by right of inheritance can rise superior to the contending parties and currents amongst his people, whereas a king by right of election is the natural enemy of the Constitution from the moment he becomes the father of a family. The greater his power, the greater his temptation

to evade or annihilate his constitutional limitations. Moreover, it is as perilous to elevate a native as a foreigner to the supreme dignity. On the one hand a foreigner involves the country in external wars alien to its interests; whilst on the other hand a native candidate never commands his due measure of authority. Since he lacks the support derived from dynastic prestige, he is necessarily compelled either to avail himself of demagogic influences or to become the tool of aristocratic faction.

Both in Latin and Germanic States it was not, as we have seen, uncommon to find an amalgam of the hereditary and elective principles. In such cases the new ruler belonged to the same family as his predecessor, but his selection was left to the magnates, whose choice was subsequently acclaimed by the people. Out of this condition hereditary monarchy developed in Western Europe at an early date, and a transition to the same system could have been achieved far sooner even in Germany, had not her various dynasties, unlike the long-lived royal house of France, frequently died out. The gloomy and gifted despot, Henry VI., nearly succeeded in establishing the hereditary right of the Hohenstaufen to the Imperial Crown. An inscrutable destiny condemned even this glorious race of rulers to premature extinction. Nevertheless the Empire became at last, in fact, an hereditary monarchy. During the last three centuries of its existence it seemed unthinkable that any but a Habsburg prince should be raised to the throne. The sole exception,

Charles VII. of Bavaria, lives in the recollection of posterity, not as a legitimate sovereign, but rather as a kind of usurper.

The advantage of securing the succession to the throne from all hazards was almost universally felt as an instinctive need, and was therefore little by little adopted automatically. It is a significant fact that the final establishment of hereditary monarchy in the states of Eastern Europe synchronized with the definite preponderance of Western culture. The election of the king ceased in Denmark after 1660, in Bohemia during the catastrophe of the Thirty Years' War. In Hungary the elective principle remained in force up to the end of the seventeenth century. In Russia it was not till the reign of Alexander I. that accession to the throne was freed from dangerous vicissitudes. Until his time the authority of the Czar was a question of fact, not a right. The period between the death of Peter the Great and the advent of Catherine II. was a continuous and frenzied struggle for power between rival claimants. Each successful competitor was in his turn compelled to resort to acts of atrocious violence in order to stamp out resistance. If to-day Russia is entitled to call herself a regularly constituted State, which is by no means beyond discussion, she owes it chiefly to the fact that the Crown devolves on a recognized principle and that no doubt can arise as to the identity of the heir-apparent.

Of all the States of Eastern Europe one only failed to conform its constitution to the occi-

dental type: it was reserved for the great aristocratic republic of Poland to ring the death-knell of aristocratic licence. Countless conflicting causes complicate the annals of this unhappy people. The ruling nationality of pure-blooded Poles was always numerically too weak to inspire and dominate the confused medley of Red Russians, White Russians, Germans, Gypsies, Jews, Vlachs, and Lithuanians. Such ethnographic conditions inevitably led to the tyranny of the ruling race. Furthermore the geographical position of the country influenced its fate; it was separated from the Baltic by Teutonic colonies, and although at one time it extended its borders to the Black Sea by annexing Bessarabia, yet its intimate union with and ultimate retention of that territory was made impracticable by insurmountable differences of custom and language. We have already said that no great power can long be severed from the sea. Poland was destined to suffer the full penalty of her ill-favoured latitude, but her fate was sealed by the vices of her Constitution. In the days of Boleslav the resources and bulwarks of the monarchy were stronger than in Germany, and as late as the fourteenth century the country could boast of a really vigorous ruler in Casimir the Great. On his death the magnates invaded and usurped the prerogatives of the Crown.

To this must be added the disastrous social fact that no commercial middle class of native extraction ever succeeded in taking root. In the early days of vigorous monarchy, large numbers of German traders had been called in and had

founded flourishing industrial cities on Polish soil. Urban life as a whole all over Eastern Europe is a German creation. That Slavs and Magyars are alike incapable of founding towns on their own initiative is clearly proved to-day by looking at Hungary. The Magyar, born to life on the "Pussta," is a kind of Bedouin to whom existence in towns is incomprehensible. Debreczin, with 50,000 inhabitants, is but an overgrown village composed of cottages separated from each other by widely intervening spaces.

The corner stone of German mediaeval cities was their charter of liberties; they had their own tribunals, their own penal laws, their local corporations whose statutes forbade any stranger from practising any of the recognized crafts. The prime condition of their rise was their isolation from the country beyond their city walls; without this protecting barrier and the right of banishment, they could never in a chaotic and barbarous State like Poland have attained prosperity.

Such results could never have been produced by any but Western stock. Here we have a patent illustration of Bismarck's aphorism about masculine and feminine nations, for even in Polish towns urban life has a German flavour; any one standing before the church of St. John in Warsaw, or in the principal square of Cracow, might fancy himself in the market-place at Leipzig.

After a time the native aristocracy were alarmed at the growth of German civic institu-

tions, which had taken root amongst them, and became suspicious of their influence. Like the Teutonic Order, the German burgher, ever growing richer, appeared to be the natural foe. Life was made so bitter to the Germans that great numbers of them were obliged to withdraw from the ungrateful country; but since trade had to be carried on somehow Jews were allowed to take their place and to dwell in the "realms of peace and plenty." But this makeshift commercial class never succeeded in putting forth the requisite mercantile energy, and was never able to form an adequate counterweight to the power of the national aristocracy. No Pole would consent to consider a Jew his equal. Gradually Poland developed into a State where nobility of birth was the only standard, and we behold the appalling spectacle of an aristocratic domination which maintained the semblance of a monarchy while scouting every pretence of the justice which is monarchy's very nature. That a nation cannot consist of knights errant, it has been the unhappy destiny of the Polish people, in spite of its many valuable and chivalrous qualities, to prove beyond dispute.

A fully developed feudal hierarchy as understood in Germany was never adopted by the Polish nobility. Instead they possessed an analogous institution which affected the State no less detrimentally. The magnates surrounded themselves with so-called "Brotherhoods" or clans formed from the Schlachta or minor nobility. They all bore the arms of their chief and were ready at all times to use their broadsword in his service. These States within the State eventu-

ally sapped the old kingdom's strength, and from the fourteenth century onwards the nobility ruled with unbridled violence over it. The Voivods were invariably magnates, and their position, especially in the frontier territories, was so independent as to make it doubtful whether at this time Poland should be considered a single State or a federation of principalities. At times the very name of a central authority seems to have fallen into disuse, and the appellation of Royal Republic of Poland, applied at a somewhat later date to this constitutional hornets' nest, is no less strikingly apt than Frederick the Great's epigrammatic description of the Holy Roman Empire as "the illustrious Commonwealth of German Princes." The nobility finally closed its ranks to newcomers in 1374 and constituted itself the governing caste, which on the accession of the Lithuanian house of Jagellon was able to exact great concessions as the price of its support. Consequently it obtained in 1386 the grant of a charter by which the entire nobility was withdrawn from the jurisdiction of the common law, and was invested with the sole privilege of appearing at the provincial and general assemblies of the kingdom. For it alone was reserved the governorship of all royal castles and domains, and the filling of all places of profit under the Crown. Hence from that date onwards the towns were systematically excluded from all share in the Government representation.

Aristocratic aggrandizement, having once found acceptance, expanded with uncontrollable

fertility, and its promoters understood to perfection the art of consolidating their mastery over the Crown by the continued extortion of well calculated privileges. The maxim gained ground that Royal offices must be provided with Crown lands to maintain their establishments, which affords a striking parallel to the so-called " Immunities " which prevailed in the Frankish Empire. The consequence of this fatal indiscipline may be easily divined. Such methods laid the foundation for the princely fortunes of the Czartoryski, Radziwill, Lesczinski, etc., while the royal revenues melted away. Poland exhibits the crude contrast between a poverty-stricken and brutalized peasantry living in degradation and misery side by side with a nobility housed in palaces of fairy beauty. The condition of the Polish bondmen was so pitiable, and their intellectual outlook so brutal and limited, that by comparison the Russian serfs seemed to live in cultured ease. Their lot could be alleviated from time to time by the benevolence of an omnipotent ruler; but the kings of Poland after a time totally renounced the right of intervening between the nobility and their dependants. Bound by law to the soil the Polish peasants were further badgered and buffeted like dumb animals by the extortions of corrupt and dishonest pedlars. The Schlachta numbered hundreds of thousands, and it even happened that whole armies which had been victorious against the Turks were ennobled by a single act.

In 1413, contemporaneously with consolidation of this aristocratic Constitution, an additional

privilege was bestowed upon the nobility, by which every nobleman who had not already been convicted was exempt from arrest. Untold distress gradually overspread the land. We know, for instance, that Bromberg under the rule of the Teutonic Order was a prosperous city with about 10,000 thriving inhabitants. It became Polish; and when after 250 years it returned to us under Frederick the Great, we found it a charred heap of ruins inhabited by some 200 ill-favoured rascals. How did this come to pass? None can tell, it was the normal consequence of Polish rule. Anarchical conditions were a source of pride, and perpetual war a condition of happiness; even to-day that is the standpoint of every genuine Pole. To him German methods, German justice, German industry seem as contemptible as the wild doings which we colloquially call "Polish inn-keeping" does to us. Every hope of improvement vanished when religious differences were added to the already existing causes of social and political confusion. Protestantism had made great headway in Poland, and the sects whose teaching contained germs of radicalism were especially influential. In opposition to these, a counter-Reformation led by Stanislaus Hosius joined hands with the Society of Jesus and the nobility in order to suppress the dissenters, whose fate we can estimate by the massacre of Thorn, and the saying current amongst the nobility, "Beat a Lutheran and he will give you money."

The climax of this constitutional chaos was reached on the extinction of the Jagellons in

1573, when elective monarchy was definitely established by law. On the demise of the Crown the entire nobility, headed by the Magnates attended by the Schlachta, arrayed according to territorial precedence, gathered in the vast plain of Wola before the gates of Warsaw for the royal election. The successful candidate was installed on a golden throne raised high above the assembled host, and was acclaimed by the clash of swords and bucklers. As a condition precedent he was compelled to sign the so-called *pacta conventa*, equivalent to the Electoral Capitulations of the German Emperors. Certain liberties remained invariable, and at every fresh election further concessions were extorted. So the idea grew that the king's duty was not to govern but to function as a figurehead. "Rege, sed non impera!" exclaimed Zamoiski the Vorvod to Sigismund III. When Thiers in 1830 coined his celebrated maxim, "The king reigns, but does not govern," he little dreamt that it had been proclaimed many centuries earlier in a State of very different type. The coincidence is no mere accident; there is an unmistakable parallel between the constitutional principles of Polish magnates and those of modern Radicals. Rousseau stands alone amongst philosophers as an admirer of the Polish pandemonium which will remain forever proverbial as an example of what the State should not be. Before the first partition of Poland Rousseau published a short pamphlet in which he warned that country against adopting the coercive doctrine of the State held by the nations of the West. With the Frenchman's bliss-

ful ignorance of foreign conditions he was unaware that these far-famed liberties of Poland were the liberties of the nobility only, beneath whose yoke groaned a multitude of serfs. Frederick the Great sickened at the sight of Polish degeneracy, as his satires show, and, paraphrasing Voltaire, denounced Rousseau's constitutional theory in these words, "If he had his way sovereigns would once more have to crawl on all fours."

The Polish Parliament consisted of the Magnates and the Schlachta plus the King. The local assemblies of the various provinces sent a representative, who must be unanimously chosen, to the Lower Chamber of the central Parliament. The Upper Chamber was composed exclusively of Magnates who sat in virtue of a personal right. The King, the Magnates, and the representatives of the provinces were separate and co-ordinated Estates. The king was not superior to the other two; he attended the sittings of parliament in person, placed upon the throne as the first amongst equals. In such an assembly, as no concluding motion was conceivable, business was brought to a close, *via facti.* It was enacted that no lights should be used, in order that proceedings might terminate before nightfall. Occasionally even this method failed of its object, and the country then enjoyed the stimulating spectacle of a slumbering parliament. The King, the Lords, and the Schlachta dozed and snored through the night, so as to be on the spot by daybreak. The rules of procedure were of the simplest, and permitted the intervention of guests, or so-called "*arbitri*," who were frequently

of the opposite sex. The flashing black eyes and nimble wits of Polish ladies often played a sinister part in the conduct of business.

The *liberum veto*, that famous "jewel of Polish freedom" introduced in 1652, was the inevitable consequence of unrestricted aristocratic predominance. If the relation of the subject to the State depend only upon a supposed contract, then every subject is clearly entitled to be consulted upon any change in the terms of that contract. It was further enacted that if in any parliament a single Bill was lost, parliament itself must be dissolved and all its previous legislation be cancelled. Thus it was within the power of any member of the Schlachta to annihilate the labours of an entire session. Already then men could be found who felt that the State was treading the paths of destruction. "A stronger than you shall arise," cried John Casimir to the rebellious nobility. From 1652 to 1704 only seven parliaments ran their normal course, while forty-eight dispersed in disorder.

Here it cannot be doubted that we are face to face with constituted folly, but as unreason when it has reached a certain pitch becomes hateful to the nature of man, a homoeopathic remedy was found by legalizing anarchy. To the political mind it is highly interesting and instructive to observe that the instinct of self-preservation was maintained even in this republican degeneracy. It was a time-honoured privilege of every Polish nobleman to conclude treaties and to indulge in private warfare; on these occasions he appeared wearing one red boot

and one black, respectively symbolizing fire and murder. From this it followed that when a parliament was dispersed because parties could not agree, they had the right to constitute themselves into two separate assemblies, not subject to the ordinary rules of procedure. The *bracchium saeculare* was then proclaimed, which simply meant that the two bodies resorted to the appeal of arms. If one or other of them succeeded in capturing the king it proclaimed itself a General Assembly and established the dictatorship. By its authority a parliament of the whole kingdom would then be called, with the power to take decisions by the vote of the majority which naturally commanded scant respect except when backed by the larger number of scimitars. So it comes about that what a party cannot attain by legal means it achieves by force.

Such was the Constitution which Rousseau and his modern Radical followers have so long extolled as a pattern. For our part we have learnt enough to know that if ever a country perished by the inexorable necessity of interior decay it is Poland. But it must be admitted that since the loss of its independence the Polish nation shows remarkable signs of transformation. A distinction must be drawn between the provinces. Throughout Polish history the inhabitants of Greater Poland, that is to say of the districts between Gnesen and Posen, have been specially remarkable for their frivolity, and for that longing for adventure which is found in all Poles. It was the misfortune of both parties

that these fantastically-minded people should fall to Prussia, and it is all the more important that we should show severity in order that the establishment of German civilization may be hastened. In spite of all the mistakes of our Government, which changes its system regularly every five years, we may confidently look forward to the final victory of Teutonism in these provinces.[1] A rising in Prussian Poland is, however, not unthinkable. There the population has enormously increased, and the novel phenomenon of a Polish middle class has made its appearance. Although it is largely leavened by Jews, this class may be the means of restoring a Polish State in Russia. In the midst of these difficult problems one thing is certain: Poland as an aristocratic commonwealth can never live again, for feudalism is in complete conflict with our industrial age.

A fourth type of Constitution, namely absolute monarchy, stands out in striking contrast to monarchy limited by Estates, which has been as much hated by the people as absolute monarchy may be said generally to have been beloved. The masses of the people were driven by a natural instinct to see in the man who was the visible embodiment of the national unity their natural protector against their many petty tyrants. The pith and kernel of absolutism is that the whole function of the State, legislative as well as administrative, is united in the hands of the monarch. Civil jurisdiction is exercised in his name, although in practice it is directed by

[1] This lecture was delivered in 1892.

authorities independent of him. Personal rights are sacred even to the absolute ruler, and secret justice is always presumed to be arbitrary.

Even this profound and fertile form of Constitution contains a contradiction, and has therefore always been a stepping-stone to further constitutional development amongst progressive peoples. If absolute monarchy be conceived in a generous spirit, and if it be granted that the benevolent autocrat who guides the State is endowed with such limitless power only that he may the better promote the people's welfare, the necessity of governing not only for but by the people will soon appear, and it will not be long before the nation is in some way or other made to participate in the conduct of affairs. For this reason the vogue of absolutism was short, as we learn from Prussia. The ideal of the absolute monarch was realized in Frederick the Great, but already in his time the lower orders began to raise their heads and become conscious of their claims. Soon after the death of the great king his system began to crumble.

Absolutism is rarely found in unmitigated form, for it almost always tolerates the fragments of extinct liberties, and absorbs the power of an earlier Constitution, while maintaining its form. In this way the old mandatory provincial Assemblies of Austria, which we have already examined, long continued to enjoy a peaceful existence in complete inactivity. In Prussia, too, previous to the fall of the Holy Roman Empire it was quite exceptional for the Government to dissolve provincial Diets. The chief

examples of such proceedings are in Münster, where a dangerous clerical opposition was fomented by the Cathedral Chapter; in Silesia, where the principal nobility long remained Austrian in sympathy; in Western Prussia, where the Polish aristocracy formed a centre of disaffection. In the other dominions of the Crown the provincial Diets continued to exist though shorn of their privileges, and allowed to retain only certain administrative functions.

The attack on ancient forms of representation was most successful in Latin States. The French States were not once convened between 1614 and 1789, although the idea of their legal existence was as firmly rooted in the public consciousness as the necessity of the Cortes in every Spanish mind. In theory pure absolutism has prevailed nowhere in Europe, in practice its career has been brilliant and eventful. Its most consistent theoretical formulation is contained in the Danish royal code of 1665, which sets no limits to the prerogatives of the Crown. It can be argued that absolutism, owing to the energy of the central authority, is a necessary transition stage for expanding nations if they are to avoid provincialism and lay the foundations of unity and equality before the law.

Apart from the petty democratic tyrannies of Italy, which form a separate category, four stages may be roughly distinguished in the development of absolute monarchy in Europe. All absolutism presupposes a certain degree of legitimacy, the authority of the Crown must at least be acknowledged in order that it may not have to compel

respect by force. The first stage of absolute monarchy is typified for us by Philip the Fair of France. He represents for us the self-sufficing sovereign will which constituted itself the tangible expression of the State and reduced mediaeval chaos to order. In England, as we have seen, authority was already centralized under the early Norman kings; but true absolutism attained maturity only through the Tudors, who, after the internecine butchery of the Wars of the Roses, were able as national rulers to dominate representative institutions without suppressing them. This process was even more marked in France. Not only was absolute monarchy a practical fact far earlier in France than elsewhere, but the theory of it was far more idealistically conceived by the French than by any other nation. There is a real grandeur about the doctrines of the fourteenth-century jurists who received their training at Bologna. A more recent exponent of the theory of absolutism, Jean Bodin, developed the doctrine of the independence of the State from all authority but its own. It is possible to trace the gradual steps by which absolute government in France first grew powerful through the ancient Constitution, then supplanted it. Feudal law had upheld the maxim, "No land without a Suzerain." The Barons were practical sovereigns of their fiefs, subject only to the vague prerogatives of their overlords. Little by little, supported by the Third Estate, the Suzerain of all, who was the king, constructed his own sovereignty out of the amalgamated sovereignties of his vassals. Abandoned by the

two superior orders, the third order could not but see in them their natural enemies. Peasants as well as burghers found conditions of life far more tolerable on the royal domains than on the lands of private lords, where the lot of the peasantry was miserable beyond all description. Royal administration offered comparative safety, and it became the custom for citizens of towns subject to private lords to take refuge within the jurisdiction of the Crown. By such an act private allegiance dissolved, and by this means the nucleus of a healthy middle class began to grow up under the protection of the king. Royal Commissioners, so-called "baillis," were despatched into the provinces to extend wherever possible the royal authority, which, while everywhere resisting the claims of the lords, finally displaced them. Later on Richelieu replaced the "baillis" by "intendants," who were the predecessors of the modern prefects, and who as plebeians were more trusted than noblemen. Governorships were reserved for the aristocracy, whose ostentatious extravagance brought the purely honorary functions of their office into disrepute.

Even the Estates of the realm never possessed a legal right to be summoned periodically; they always remained an extra legal authority as distinct from the Crown and its Ministers, and were ruined as an institution by the fury of class hatred. In the midst of the deadly peril of the Hundred Years' War, the nobility and the clergy, by an act of criminal folly, conferred upon the Crown the right to tax the Third Estate at pleasure on condition that the two higher orders would be

exempt. Nothing could contrast more strongly than this suicidal conduct with the attitude of the aristocracy of England which was always careful to preserve its relations with the other Estates of the realm. Thus the *États généraux* disappeared more and more from view. They were brought into some prominence during the wars of religion, when they held their sittings at Blois and at Orléans, but they enacted fanatical decrees with unfailing regularity, and, having become the arena of religious strife between the rival persuasions in the aristocracy, were gradually pushed more and more into the background. By Henry IV.'s time they had fallen into such disrepute that it was felt by the Third Estate as an alleviation when, in his reign, the sittings began to be less frequently convoked, and finally entirely ceased under his successor. Of the once powerful provincial Assemblies of France only those of Languedoc and of Normandy retained their importance, and were not entirely devitalized. The assembly of the Estates of Dauphiny which met at Vizille in 1787 was the pattern upon which the great National Assembly of 1789 was modelled.

The first phase of unlimited monarchy, during which the king appeared especially in France as the restorer of peace and centre of unity, was followed by one which may be described as the theocratic period. Of this fanatical school of absolutism, which inscribed *cujus regio, ejus religio* upon its banners, Philip II., the cloistered king-monk of the Escurial, is the perfect and abhorrent type. Philip was not only the secular head of the State he was also an ecclesiastical

dignitary. The resources of the Inquisition were at his disposal, and the Crown derived additional strength from the almost unlimited powers over Bishops which Philip wrung from the Pope. To restore the unity of faith was his sole and absorbing aim. In other respects he barely governed at all, the material welfare and instruction of the people were totally neglected. In spite of its wealth the country fell into general decay, and bled to death spell-bound by the idea of universal Catholic empire. The development of theocratic absolutism followed a similar course in Germany during the great wars of religion. Ferdinand II. boldly laid down the maxim, *novus rex, nova lex*, and repudiated the liberties conferred by his predecessors upon the Bohemians. In virtue of the royal supremacy, and armed with the Papal blessing, he proceeded to promote the welfare of his people by means of the Lichtenstein dragoons. The conception of government which limited its ambition to the restoration and maintenance of religious uniformity, and ignored all other internal questions prevailed in Austria until the time of Metternich. A somewhat milder version of the same political principles was professed in Protestant countries, where the princes, supported by the Court preachers, were above all concerned to enforce the precept, *cujus regio, ejus religio.*

At the close of the religious turmoil of the seventeenth century absolutism modified its character, and its theocratic form was succeeded by what may be called a courtly absolutism, which found amongst the French its first and highest

development and its earliest decline. It was the tragic destiny of that people which, earlier than any other, had understood and valued the virtue of unlimited monarchy to be the first to suffer from its most deadly errors. Till the era of the two great Cardinals, Richelieu and Mazarin, who completed the unification of France about the middle of the seventeenth century, the monarchy may be said in spite of some crimes to have been true to its mission. The numerous illegalities of which the Government was guilty must be regarded as expiated by the noble purpose of securing the State from the disruption which was the darling aim of a turbulent aristocracy. Under Henry IV. France had enjoyed the benefits of a peculiarly lofty and healing phase of absolute monarchy. The king, although one of the greatest liars known to history, was idolized by the people, and was endowed with the irresistible charm of a perfectly chivalrous bearing. Any attack on Henry IV. involves the whole French nation, and no one has the right to dismiss with contempt the genius of an entire people.

The idea of monarchy had matured to such a pitch in France, that the nation felt its glory embodied in the person of the king; the two Cardinals secured its practical guarantees upon an unshakable foundation. The Fronde having been quelled, Louis XIV. on his majority took over the legacy of absolute and unquestioned sovereignty. From that date forward began the monarchy's career of guilt. By that time every possibility of the revival of aristocratic and centrifugal tendencies was out of the

question. The sole object of the Crown should have been to employ its undisputed predominance in the interests of national prosperity and enlightenment. The shallowness of Louis's character made him sacrifice such considerations for outward show in which the essence of monarchy consisted for him. His whole attitude is summed up in the odious motto, *L'État c'est moi.* This expression is said first to have been used as a retort to Louvois, whom the king reproached for the devastation of the Palatinate, and who excused it by saying that the blame would be laid upon the State and not upon the king. Such an origin of the saying would have done him credit, but he later employed it to justify the most reprehensible proceedings, and it has therefore since become a byword for fulsome and repellant self-glorification. This incident has a psychological aspect which it is important to note. All nations know the saying, " Self-praise is no commendation," but in the highest place of all, self-praise has something outrageous and implies a challenge. There is no doubt that unlimited power bestowed upon a single individual not only excites but distorts his understanding, but when it degenerates into petulant arrogance, and a nation is constantly reminded that it would be in the shade but for the light which radiates from this same individual, it is inevitable amongst thinking people that a reaction must sooner or later set in which will culminate in revolution. France has had to taste the bitter experience of this revolution which was precipitated by the cruelties of religious intolerance. The expulsion

of the Huguenots deprived the nation of its last chance of uniting freedom with piety, and obliged it to choose between frivolous free-thinking and blind surrender to the fiat of the Church. It is not too much to say that the French Revolution was the logical outcome of the Revocation of the Edict of Nantes.

Another repulsive feature of the later stages of French absolutism was that it associated itself entirely with the interests of the courtiers instead of applying its resources to the intellectual and material improvements of the nation, and was blind enough to identify its cause with that of a hated aristocracy. The infatuation of such a policy was made manifest by subsequent events. Under Louis XIV. the small gentry of the Vendée and other Western Provinces, although the healthiest element of the French aristocracy, were in bad odour at Court because, unlike the other nobles, they preferred to live as honest gentlemen on their estates in friendly contact with their dependants rather than waste their substance at Versailles. But, when the day of reckoning was at hand, who fought for the rights of the Crown ? Not the polished nobles of the Court, who fled the country in attendance upon the degenerate princes. None were found to fight for the golden lilies but the provincial squireens. Nothing could be more significant. Thus the noble spirit of absolute kingship was poisoned by the air of Courts.

Yet another brand of monarchy existed which took root and may be said to have flourished best in Prussia. Of the three final stages of absolut-

ism—the theocratic, the courtly, and the enlightened—our country became familiar only with the last and noblest; for, at the time when theocratic notions had the upper hand, even in Brandenburg our monarchy was not absolute but limited by Estates, and the powers of the prince were extremely restricted. The career of courtly absolutism among us was but short and stunted. King Frederick I., a man of very moderate intellect, attempted, according to his poor ability, to emulate Louis XIV., but at heart felt a keen sense of his duty to the State. His imitation, confined to externals, soon became ridiculous. The heavy German lacks the dangerous French gift of making wrong alluring; Germans who attempt to tread such paths are only coarse and clumsy. On this principle Frederick I. kept a State mistress as a part of the insignia of absolutism. It may be said with truth that enlightened autocracy has prevailed with us since the days of the Great Elector, and found in Frederick the Great its most accomplished representative. The State policy is fitly epitomized in the saying, "Everything for the people, nothing through the people," but more nobly still in the words of the Great Frederick himself, "The sovereign is the chief servant of the State." As heir-apparent the youthful prince took pleasure in using almost offensive terms to express his belief in the unconditional subordination of the monarch to the welfare of the nation as a whole, and his "Anti-Machiavelli" therefore employs the term "Lackey of the State." Frederick William I.

also regarded himself as perpetually on duty. In his own eyes he was a Prussian officer who happened also to be King of Prussia. His whole being was absorbed by the sense of service to the common weal. There is an awe-inspiring sternness in a life so penetrated by a sense of duty.

This fact is even more vividly brought to light by a study of Frederick the Great's character. The average man can scarcely grasp the standpoint of personal abnegation and of detachment from all selfish aims which characterized the wise, lonely old gentleman who wandered to and fro with his greyhound in the picture-gallery at Sans Souci. Hence the foolish verdicts on the great king to which we are so often treated. Enlightened despotism reached its zenith in Frederick the Great, whose historical importance in this respect has been misjudged by most historians. Because he had a genius for despotism it is assumed by a tempting but treacherous analogy that he was also a pioneer in Statecraft. No doubt he deserved this appellation for having been the first to declare emancipation from Austria as the true political goal. But as regards internal affairs such a claim cannot be supported; in this respect he did not initiate but concluded a great epoch. With a few isolated modifications he maintained the institutions inaugurated by his father. He showed creative zeal only in regard to the administration of justice. By the General Provincial Code (*Allgemeine Landrecht*) he consolidated the legislative structure begun by the Great Elector.

Genius alone possesses the talisman of inspiring emulation, and many European Courts were spurred to imitate Frederick's example by the glamour of his renown. If we compare Augustus of Saxony and Eberhard of Wurtemberg, who strove to out-strip Louis XIV. in self-adulation and riotous living, with Frederick Christian of Saxony, Charles Frederick of Baden, Charles Augustus of Weimar, who endeavoured to walk in the footsteps of our great King, we fully realize that he alone taught the German princes to conceive their royal mission aright. His father's grim and narrow austerity unredeemed by genius was repellent in the extreme. The startling anomaly of an historic people at once so venerable and so undisciplined had in him its living embodiment. The key to the problem lies in that return to barbarism of which the Thirty Years' War was at once the cause and the climax. Regarded from this angle our history has a tragic aspect not fully redeemed by the subsequent glory of the absolutist era. Frederick's conception of kingship is set forth with perfect logicality in his *Mirror of Princes,* which he dedicated to Charles Eugene of Wurtemberg. Even the greatest of Austrian monarchs, Maria Theresa herself, felt the spell of his influence, and it is perhaps her greatest merit that she, a woman, was yet able to recognize the greatness of a man who had earned her unbounded hatred, and she was magnanimous enough to attempt the introduction of his system into her government as far as local conditions would allow. Monarchs and ministers pledged to progress arose even in

Catholic and Latin States; Italy, Spain, and Portugal began to initiate reforms.

It is unfortunate that the enlightened absolutism which emanated from Sans Souci began its triumphal march through Europe when it was too late for most countries to profit by its benefits.

The form of absolutism native to Prussia rests upon, and is inseparable from, a firm hierarchical division of the people, which is bred upon the tradition that each of its separate classes has an unalterable function to perform. While the nobility own and administer the large landed estates, the smaller holdings are left in the undisturbed possession of the farming peasantry. It is the right as well as the duty of the nobility to shed its blood in defence of the King and to occupy the high offices of State. Below it comes the citizen class, whose avocation is principally trade and commerce, and which for that reason was exempt even as late as the Great Frederick from military duty in most Prussian towns. The function of the peasantry was to provide the main body of the army, and in addition to cultivate its share of the soil in peace time. To maintain intact the frontiers between the classes was regarded by the absolute monarchy as indispensable to social justice. Out of the humble town-dwellers which he found at his accession, Frederick's measures and policy gradually, though no doubt unintentionally, evolved a middle class which little by little acquired, at least in part, the refinement and wealth of the nobility, and began to feel itself the backbone of the nation. The transition to another

and freer form of constitution became inevitable. It is evident that when monarchy is conceived in the lofty spirit in which Frederick II. understood it, the power of the monarch increases in proportion as he holds himself to be invested with a political office for the benefit of all. Even a government inspired by theocratic notions like that of Philip II. recognized the Church as limiting its power, just as courtly absolutism was restrained by the nobility. The French monarchy succumbed not to its own inherent faults, but to the fact that it allowed its aims to be hampered by the interests of an aristocracy which had become an integral part of its system. In contrast with these types of absolutism, so-called enlightened autocracy can detach itself from the clogging influence both of ecclesiastical and aristocratic prepossessions and carry out its task with noble concentration. In Prussia the power of the Crown had expanded in every direction, and though the King was unable to intervene in civil causes, and had to learn the danger of such meddling when he tried to dispossess the miller of Sans Souci, yet it was always within his competence to appoint Courts of High Commission and to apprehend any individuals in the interests of public policy. These prerogatives vested an immense discretionary power in the King, and the use made of them against the popular leaders in 1819 was in a legal sense perfectly justified and in accordance with the recognized rights of the Crown. This great discretionary authority left the Crown full latitude to proceed very gently and liberally

when it so desired, as shown by the tolerant attitude of Frederick the Great and Catherine II. towards the Jesuits after their dissolution by the Pope.

It is generally overlooked that in other spheres the old absolute monarchy was far weaker than modern constitutional kingdoms, and its lack of elasticity was particularly apparent in finance. Under the old system each Provincial Assembly raised by direct taxation fixed sums which could not be increased at the demand of the King, who in point of fact had full control only over revenue yielded by direct taxes. The weakness of the Government in this respect led Frederick the Great, when his financial necessities became pressing, to that system of State monopolies and surveyors which ultimately made him so unpopular. The result was that Frederick had not the power to raise the total yield of direct taxation. The drawbacks to such a state of things were especially onerous in war-time. Without England's assistance Frederick the Great could never have carried on the Seven Years' War, and his successor soon found himself in great financial straits. Generally speaking, at that time, just because it had such an overwhelming share of power, the Crown felt a far greater moral responsibility towards public opinion than constitutional monarchs of the present day, who are shielded from criticism by representative governments. When under Frederick William III. it was proposed to establish monopolies, which at that time would have been a salutary proceeding, and to introduce a paper currency, the King on

both occasions held back from a fear lest public opinion would condemn these measures. If a State monopoly in the tobacco trade had then been established and maintained, a valuable source of revenue would have been created. The Government of that day, however, showed a greater deference to public opinion than do our contemporary authorities. Although the proposed monopolies broke down under insurmountable difficulties, our present Government felt strong enough to attempt their introduction. It remains true that a Constitutional Monarchy can proceed far more boldly in finance than any other because it shares responsibility with the representatives of the people.

The theory of absolutism lays down as a general maxim that the monarch is bound by the promises of his predecessors so long as he has not formally repudiated them, but since his powers in legislation are unlimited, he may abrogate any law and *a fortiori* a mere promise. Its practice, indeed, is very different, and experience has proved the moral prestige of such pledges to be so powerful as virtually to preclude their repeal. Filial reverence alone suffices to make a son averse from cancelling the promises of his father, and this natural sentiment brought Frederick William IV. to the brink of disaster. It would have been possible for him to repudiate his father's pledge to grant a Constitution and substitute some project of his own, but he refrained out of respect for the paternal memory. Without taking this course he nevertheless did make proposals of his own, which proved imprac-

ticable on legal grounds. While the original promises remained both unredeemed and unrepealed, Parliament was perfectly justified in demanding their fulfilment. A constitutional State, on the other hand, can easily solve such problems by a legislative method. When Government finds itself committed to a law which has proved inapplicable in practice, it has only to convince the legislature of this fact and to pass a second measure annulling the first.

It is a further defect of absolute monarchy that all opposition to Government must assume the appearance of personal resistance to the Sovereign ; all public servants are his instruments, and ministers are answerable to him alone. The choice of the prince in making appointments may, as a general rule, be guided by the prescribed examination tests, but he is fully entitled to make exceptions at his pleasure. It is no uncommon thing amongst us for troopers to have risen rapidly from the ranks to prominent posts because on some occasion they have attracted the favourable notice of the King. The relative independence from control by the Crown, which is claimed at the present day by chiefs of great departments, would have been unthinkable under the old monarchy, when every criticism inevitably implied a personal attack upon the ruler himself. On the accession of Frederick William II. a complete change from the spirit which had animated the reign of Frederick the Great set in, and we still have to blush for the torrent of scurrilous lampoons against the King which flooded the country. That opposition should

take this form is natural and unavoidable when the King, in whom everything centres, proves inadequate to his task, as it must be confessed that Frederick William II. turned out to be. Thus we are led to the conclusion that even the loftiest and most perfect type of absolutism can be no more than a transition stage to a Constitutional Monarchy, which governs not only for the people but through it.

For this reason our own time knows despotism in one European State alone, namely in Russia, where it is so closely bound up with the social habits and outlook of the people, and so well suited to its educational level, that, given competent rulers, it is certain of a prolonged future. To class the Prussian absolutism with the Russian, as the Radicals do, is an error. Just as the Russian Empire extends far into Asia, so the Russian monarchy is half orientalized in character. The White Czar is not only the unquestioned master in temporal affairs, he is also the head of the Orthodox Church. That fact is of course disguised by the veil of official terminology, but deep down in the hearts of the people is rooted the belief that the true faith is guarded by the White Czar of Holy Russia.

Only after a prolonged struggle with the nobility have the Czars made themselves sole masters of the State, and the immense power which they wield to-day rests upon the complete democratizing of society. In Russia there is no hereditary nobility strictly speaking, but the whole community is divided in Chinese fashion into professional categories; this is the "tchin,"

and any one who wishes to preserve his status in that hierarchy must enter the service of the State. If two successive generations of a family have failed to hold public employment that family forfeits its place in the "tchin."

The absolute power of the Emperor is exercised through four main channels which are the Ministry of State, whose decrees have executive force; the Council of the Empire, in which the Imperial Ukases are drawn up, and which consists exclusively of superior officials; the Senate, which is the Supreme Court of Appeal; and, lastly, the Holy Synod, which is the final authority in ecclesiastical affairs. This assembly, which consists entirely of Bishops, has preserved only the appearance of independence and is brought under the immediate control of the Emperor by the presence in its midst of an Imperial Procurator, whose functions are apparently nominal and in fact despotic. On its side, the Holy Synod raises the very natural claim that the White Czar should own no subjects but such as profess the orthodox faith. Special dispensations are the only legitimate means of evading this rule, but reasons of secular policy may deter the State from its rigorous assertion. Mohammedans are usually the beneficiaries of this calculated leniency, which the Russian Church has ever extended more readily to them than to Protestants or Roman Catholics. Nothing can be achieved amongst Kalmucks, Kirghese, or other engaging Tartars by religious propaganda. Owing to their semi-Oriental temperament, Russians have a peculiar facility for dealing with Moslems, who, for their

part, fully realize the half-Asiatic character of Russians. At Constantinople and in the East generally the difference is recognized in colloquial speech between Franks and Moscos.

Long after Peter the Great had imported the outward forms of Western civilization into his dominions, it fell to the lot of the magnanimous Emperor Alexander II. to attempt the infusion of the Western spirit into the rigid mould of a semi-Asiatic despotism. It is surprising that one and the same man should combine such moral fortitude with such physical timidity. The nineteenth century can boast no more admirable example of political courage than the abolition of serfdom in a State like Russia. At the date of this event, which took place soon after the Crimean War, the position of Russia may be compared with that of Prussia after 1806. Alexander possessed in Count Waluieff a talented adviser imbued with the spirit of Stein, though less profound than he. The happiest results were anticipated from the Emperor's reforms, but he was unfortunately lacking in the sustained energy which stamps creative genius, and allowed himself to be arrested half-way to his goal by the passive resistance of the well-to-do classes. A middle class is only now beginning to emerge, but in those days the lack of it made itself felt as Russia's greatest weakness. Personal liberation meant little to the serf unless he were also endowed with his plot of land. A Russian peasant has scarcely any property beyond his hut, which is worth but little. Even at the present day he lives in a primitive communistic

group, which Russian Radicals have the audacity to hold up as a pattern. Every commune has its portion of arable land, in the cultivation of which all collaborate, subject to certain rules. In order to allow some parts to lie fallow in deference to the requirements of the soil the allotment cultivated by each peasant farmer under communal supervision is intermittent. This instability of tenure is Russia's misfortune, and fosters the nomadic strain in the character of her people.

Another factor in the rural life of Russia is the configuration of the country, which is so featureless as to make it difficult for any one to remember his bearings. The same repellent monotony extends for hundreds of miles, and the total absence of what we consider the amenities of landscape further impedes the civilizing process. The quickest method of counteracting the primary encouragement to a wandering life which these conditions constitute would have been to create peasant ownership. But Alexander unfortunately stopped half-way in his magnanimous project, which, like his other grandly-conceived reform, the establishment of Zemstvos, was arrested in its infancy and has to-day been lost sight of. Instead, representatives of the landed interest were appointed to act as advisers to the Governors of the various provinces in order to co-operate with them in the administration, notably with regard to road-making and the poor-laws. This again was a well-considered plan, for without the preliminary experience of some measure of local government,

no scheme of popular representation had a chance of holding its own against a centralized bureaucracy. Once more the opposition of the wealthy classes proved too strong, and already in the lifetime of Alexander II. it became apparent that in an Empire of such vast extent even the most carefully balanced reforms are dependent for their success on the personality of those who are entrusted with their execution. Where the Governors were men of ability the Zemstvos were tolerably successful; where the Governors were tyrannical the whole system remained a fiction. It is unfortunate that, in addition to these wholesome innovations, Alexander should have imported a number of Western institutions with no better claim to consideration than that they have found favour with liberal theorists. First among these importations stands trial by jury. The mere mention of a Russian jury provokes a smile, for, while their value may sometimes be contested even amongst ourselves, in Russia their success is infinitely more impeded by the good, as well as by the bad traits of the Slav, who is far more easily swayed by his passions than the Teuton. The Russian lacks moral discipline rather than intelligence. How could even an approximately just verdict be expected when the educational and moral level of the nation is no higher than it is in Russia? The unreasonable conclusions at which Russian juries have been known to arrive, are fully explained by the general conditions in which the people live.

It was to be expected that the lessons taught by the experiences of Alexander's reign would

be followed by a violent reaction, which took place indeed, but in such uncompromising form that it is hard to foresee what course may still be open to the internal development of Russia. As we have already said, the greatest strength of hereditary monarchy is that the interests of the reigning dynasty are inseparable from the fundamental principle of the Constitution; the necessary degree of continuity is thus secured, but it is precisely this essential element of healthy political life which is lacking in Russia. Not until the accession of Alexander I. in 1801 was the order of succession to the throne securely settled. That conditions have remained unstable in spite of this consolidating change is proved by the circumstance that every new Czar reverses the policy of his predecessor, and by the fact that the throne has been occupied alternately by innovators and reactionaries with monotonous regularity. The modernizer, Catherine II., was succeeded by the Muscovite, Paul I., who was followed by the Germanophile Philo-pole, Alexander I. Then came the nationalist, Nicholas I., and following upon the high-minded, cultivated European Alexander II. we see the primitive Muscovite ideal personified in Alexander III.

This continual fluctuation is an unmistakable symptom of immaturity, the origin of which must be sought in complex and abnormal ethnographical conditions. The precise character of their civilization is therefore difficult to analyse. Contemporary Russian history has revealed to us that sheer madness may seize upon the rulers

of such a State. A measure so suicidal as the annihilation of the German-speaking community in the Baltic Provinces is a phenomenon which has rarely, if ever, been attempted before. The inhabitants of that part of the Empire were, if anything, too faithful. Their share in making Russian history is enormous, and it is hardly too much to say that every third name in the roll of Russian soldiers and statesmen belongs to a native of these regions. Add to this the ethnographical conditions. The Baltic Provinces are at bottom not German at all. Although there is a thin crust of German nobles and merchants, the great bulk of the inhabitants spring from Lithuanian and Finnish stock, and a German rising would therefore have been a practical impossibility. These are the provinces which Russia, with unparalleled cruelty, determined to partition and persecute in spite of all she owed them. If the expulsion of all Germans from Russia were carried out, it would be followed by the collapse of her public services, for the proper conduct of which native ability is totally inadequate. In spite of this, or perhaps because of it, hostility to Germans is rampant. A new reign would probably once more bring Western notions into fashion. No great power can flourish whose Government is subject to such convulsive impulses. The panacea of German Liberals for all evils is the introduction of a representative Government. No one can prophesy with certainty whether that system can ever take root in Russia, but for the present a constitution would be a very doubtful boon. Social reforms

are Russia's most crying need. Serfdom must entirely disappear, and the peasantry must be enabled to hold land; the miserable system of elementary education must be radically recast. On inquiry the only opponents of the improvements are found to be the great landlords, who, together with a few representatives from the great towns, would alone constitute an eventual Russian Parliament. Such a body, therefore, would necessarily be reactionary in the worst sense and would only serve to handicap the Crown. Doubtless educated Russians felt keenly the need of a constitution between 1815 and 1830, when the Grand Duchy of Warsaw revelled in its independence, and even later, when the small states which Russia wished to detach from Turkey began to indulge in all manner of constitutional experiments. Every one of them must needs have its Skupshtina, in which, of course, the members belabour and shoot each other, but which suffices to prove that Parliamentary institutions may have a future even among Slavs and Vlachs.

Although the result may be doubtful, there are many things which show that Russia will one day attempt the experiment of a Parliament, but even the actual conditions should not mislead us into underestimating her gigantic vitality. The unrivalled power of assimilation which characterizes Russia is an asset of the greatest value in the political life of a nation and must not be overlooked. If there be a people which seems predestined to greatness, it is the people of Russia. Its civilizing mission in Asia is un-

deniable, and many unsolved problems lie before it in that Continent; but it is a danger for Europe that successes in Asia fill the nation with an overweening sense of victory to which it is not entitled. Its Western frontier is of such a nature as to make it unassailable and it has attained to such a pitch of national conceit that it thinks itself capable of conquering and ruling the West. The imagination of Russian subalterns has no difficulty in sketching a campaign in which one half of the army would invade India, while the other half would march on Constantinople by way of Berlin and Vienna.

In Asia the Russians, as an Aryan people with a semi-Oriental form of government, are the obvious bringers of Western culture; but to Europeans the present conditions in Russia are an object lesson that any return to absolutism would be a sheer impossibility for Western nations.

XVII

CONSTITUTIONAL MONARCHY

THE infinite variety of aspects assumed in history by Constitutional Monarchy are dictated by the course of political evolutions and the changing needs of nations. There are three indispensable tests in the proper analysis of this form of government. Firstly, although both in fact and in law the entire power of the State is centred in the Crown, no legislation can be made effective without the co-operation of the elected representatives of the people, that is to say, of an assembly whose members vote individually and not by classes. Secondly, the administration itself is in one way or another controlled by the representative assembly, which at the very least has the right to grant or refuse supplies. Thirdly, justice is administered in the King's name, but in such a manner that civil and criminal proceedings are protected from his interference, and that the royal prerogative of pardon alone remains to him. These are the characteristics common to all representative systems. The circumstances of each case, however, differ so widely that it is impossible to regard States like England, Belgium, and Prussia

as governed by identical constitutions. In this connexion it must never be forgotten that Parliamentary institutions on the Continent originated in a cult of the British Constitution, which gave rise to a great misunderstanding. We know that to Montesquieu England, though ruled by the proudest aristocracy of his day, appeared as the paragon State combining the advantages of monarchy, aristocracy, and democracy. He believed that she had solved the problem of maintaining while co-ordinating these three elements in the State; the patent fact that Parliament controlled both the executive and the legislative power seems to have escaped him. With Montesquieu's erroneous presentation before us, it becomes our duty to inquire what was the real condition of English institutions in their classic period towards the end of the eighteenth century, and what were the precise features which gave those institutions their world-wide influence. That influence has been immense, and the triumphal progress of English constitutional law throughout Europe in the nineteenth century is comparable only with the once irresistible sway of the Roman Law of Persons. A vogue so unparalleled cannot be due to accident or caprice.

The Norman doctrine that all power and all law emanates from the King is to this day maintained in England in theory, and is exemplified in practice by the absurdities of etiquette. On close scrutiny, English public life shows traces of that same subtle hypocrisy which also colours its social life, and for which the English language

provides an untranslatable expression. The clerical drawl is all-pervading: it is heard not only in the pulpit, but in the fashionable drawing-rooms of London, where frivolity is as prevalent as in Paris, though hidden by a tedious veneer of outward decorum, which is kept up even in the political arena. The epidemic aptly described by a contemporary publicist as "constitutional cant" has everywhere disseminated the doctrine of the legitimacy of the Hanoverian claim. What are the facts? With the destruction of legitimate monarchy in England by the Revolution of 1688, the effective power of the Crown was annihilated. James II. was the last governing King of England, and William III. a mere usurper. The "glorious Revolution" was an upheaval in the widest sense, and was a signal for the gradual decay of all national traditions. Thenceforward the monarchy existed by the grace, not of God but of Parliament, although William III.'s personal ability enabled him still to play the part of a true king. The Act which placed William III., upon the throne laid down that King James II., having broken the original contract between prince and people, the Crown should be held forfeited. Modern English constitutional law rests upon the false doctrine of an original contract, yet another specimen of the sort of thing which is hushed up by liberal doctrinaires. By a subsequent resolution Parliament then summoned the Guelphs to the throne, although their hereditary pretensions to it were of the remotest nature, and the claims of some five-and-forty members of the Stuart family were thereby set aside. The

title by which the House of Hanover reigns to-day, and by which the House of Coburg will one day reign in its stead, is an Act of Parliament which, in contravention of an ancient hereditary right, called in a distant relative of the legitimate sovereign to supplant him. Now, if it is of the essence of monarchy that authority should be self-derived, it must be clear to every unprejudiced mind that the British Constitution is closely akin to an aristocratic republic, since, notwithstanding the formalities of an obsequious ceremonial, the King has been deprived of all real political power, and since the legal basis of his government rests, not upon an inherent historical right, but upon an arbitrary act of the legislature. These conditions, to the maintenance of which the extraordinary tenacity of certain personal characteristics has powerfully contributed, are in every respect peculiar and local. The last eminent man to occupy the throne of England passed away with William III., and even he, as a foreigner and a usurper, did not wield the plenitude of royal authority. Under his successors the personality of the sovereign was so completely overshadowed that there could be no question of maintaining the Crown's freedom of action against the encroachments of a haughty native aristocracy. A Duke of Norfolk could not look up with veneration to the new-born majesty of a German princeling. The first two Georges were not Englishmen at all, and the former was so ignorant of his adopted country's language that he was obliged to communicate with his ministers in

dog-Latin ; the consequence was that he absented himself from the meetings of the Council. A new direction was thus given to constitutional development, and matters came to such a pass that it was no longer seemly to mention the King's name in debate for the plain reason that that name had lost, and was intended to lose, all influence. George III. was the last English Sovereign who attempted the re-establishment of personal rule. His machinations began with the betrayal of Frederick the Great and ended in disgrace and disaster with the loss of the American colonies. Such were the consequences of the final effort of a small-minded king to restore the lapsed prerogatives of the Crown. At a subsequent period the Prince Consort was compelled to abandon as chimerical the plans which he had harboured for the revival in England of monarchy in the German sense. He resigned himself to the task of instructing his wife in the difficult art of maintaining with decency the ridiculous position assigned to her between the rival parties, an art which she in fact practised with considerable grace.

Regarded as a whole, the conditions of English public life explain why Montesquieu laid down that suspicion is the predominant factor in constitutional monarchy, and how it is that he made himself responsible for the repulsive doctrine which attempts to found a noble form of government upon one of the ugliest traits of human nature. Yet this doctrine is accepted as axiomatic even at the present day by all Radicals, although they may not venture to proclaim it broadcast.

Even my own revered master, Dahlmann, taught that political freedom had probably less to fear from the Crown when it is worn by a mediocre man than from the dangerous gifts of genius. It is a marvel that such words could be uttered by a lofty and spirited thinker, as though genius, the greatest of all Heaven's blessings, could ever become a public danger.

It should be obvious that even if it were possible, it would remain highly undesirable to transplant to other countries such a degenerate phenomenon as English monarchy has now become. Common sense suffices to tell us that the best political institutions are those from which the strongest hands can evolve the greatest results. Any one, therefore, who asserts that monarchy should be constructed with a view to suffering the least possible harm from mediocrity may be said to have studied history in Bedlam. The education of English princes is well calculated to propagate the hereditary nullity of the House of Guelph, and may be said to have achieved its object with admirable success. Not one of the possible heirs to the throne can be called a soldier in the professional sense, and it is no presumption to surmise that the ancestral peculiarity of the Hanoverian line in this respect, which has become a commonplace of English public life, will be transmitted to the next two generations of the House of Coburg. Germans, however, will not diverge from the paths of common sense, and will not propose to their countrymen to exchange a healthy and living limb for even the most cunningly contrived artificial member. We know

by experience that our monarchy is so devised as to yield the best fruits under monarchs of strong personality. In the last resort it cannot be the aim of constitutional government to deprive monarchy of all reason for existence; in a nation politically mature the maintenance of its vigour and popularity should rather be the object of the Government's solicitude. In our country the monarchy is about the only institution which unites us to our historic past. Can we desire to barter our glorious Hohenzollerns for the English Georges? The annals of our monarchy are so glittering that every Prussian has a right to say that the best conceivable king is only just good enough for him. According to our law the monarch alone is invested with the authority of the State, and he who asserts the contrary must prove his allegation by the evidence of examples peculiar to the history of foreign countries.

We have established that the first factor in English constitutional life is an impotent monarchy. The second is the existence of an exceedingly powerful and politically astute aristocracy. The yeomen had been completely bought out by the end of the sixteenth century. Conditions which survive as a curiosity in Mecklenburg and parts of Pomerania are the rule in England at the present day. The life of the rural classes bears the stamp of servility. The great landlords occupy beautiful castles; next to them and wholly dependent upon them come the tenant-farmers; and finally a host of day-labourers, who have no other cause for existence than to

serve the landlord. In England the gentry have devoured the peasantry, who in Germany constitute the backbone of the community. The perfectly logical result has been that aristocratic influences have preponderated in the development of her Parliamentary institutions. Although decisive debates have always had to be conducted in the Lower House since the days of the elder Pitt, it would be an error to conclude that impotence seized upon the House of Lords from that time onwards. Who in those days nominated the Commons? None other than the Lords, who figured as the *élite* of the nation while they packed the Lower House with their younger sons, nephews, and cousins, and caused their henchmen to be returned to it by subservient voters. Every Peer had a number of electoral divisions in his pocket.

Any fundamental difference of outlook was therefore impossible, and in fact did not arise throughout the eighteenth century. Hence it follows that the whole trend of political life was determined by the aristocracy, which so overshadowed the Court that it ceased to be, and has never again become, the centre of society. The two historic parties of Whigs and Tories were agreed on the principles which should guide the conduct of State affairs; the struggle raged only round the application of those principles in individual cases. The chief object of contention was office for its own sake. The hollowness of their political contest softened the asperities of party warfare, and saved the State from the dangers of revolution. It is due to England's

immemorial habits of self-government that the orderliness and justice of civil administration could remain undisturbed by the conflict of parties. As Justices of the Peace the country squires carried on the entire current business of the county, which they conducted in the spirit of free men, though no doubt in a slow and cumbrous manner. It was a point of honour with the well-born young gentleman, on concluding his studies and on returning from the Grand Tour, to be inscribed on the list of magistrates, and this privilege was never refused to a landowner. Justices of the Peace might belong to either of the two political parties, but as the jurisdiction of all alike extended to the whole county, each could check the partisan decisions of the other; at the same time they were sufficiently independent to be unaffected by the change in the Ministry, and justice took its course slowly but without corruption.

Standing above this aristocratic local administration are a small body of Parliamentary officials, some sixty-four in number, who change with the Ministry, and who are selected from one or other of the Houses of Parliament. These are the real heads of the administrative departments round which all political ambition centres. Below them is another grade of officials, who bear the significant title of "clerks." All English officials are so designated; they have no latitude in taking decisions, and only exist to carry out the orders of chiefs sitting in Parliament, from which they are themselves excluded by law. It is a very ancient experience that a class which

is cut off from the full satisfaction of its ambition always suffers a *capitis diminutio*. Let us suppose our Prussian corps of officers to be so constituted that the generals were necessarily chosen from a different class from the other officers. All would instantly be changed. This is the position in England. The whole category of Civil Service clerks is excluded from the highest offices; they are therefore underlings in the full sense, and in this respect can be compared only with our Councillors of Chancery. They, too, know that they will never really govern, but must for ever remain mere instruments. A Civil Service whose functions are thus curtailed will attract a very different type of man from one which will afford scope to his capacity for government. The aristocratic nature of the English Constitution here stands revealed. Every administration, like every army, must recognize a distinction between superior and subordinate; the vital question is where the line of demarcation is drawn. In Germany this line is drawn much lower down than in England, and therefore our social life has a far more democratic aspect than hers.

The apex of the marvellous English state-machine is the Cabinet, which is the Sovereign *de facto*, and is composed of the King's confidential servants. These persons, chosen from amongst the men who have won the favour of Parliament, form a Government of which the law to this day knows nothing. The law recognizes a Privy Council, of which ministers are invariably members, but no statute enacts that it alone

should hold the reigns of Government. The chief members of the Parliamentary majority for the time being occupy places in the Cabinet, which has been rightly called a Committee of that majority. Thus there is no representation of the Government as such, for the Government itself forms part of Parliament. Ministers sit on the front-bench either of the House of Lords or the House of Commons, and Peers may only speak in the Upper House, Commoners only in the Lower.

What a contrast with our own institutions, and what a situation would have arisen if Prince Bismarck had been prevented from speaking in the representative Chamber, simply because he happened to be a member of the Chamber of Peers. As only members of the House of Commons may speak in their House, our whole system of Government Commissioners would be an impossibility in England. The totally different position of the permanent officials in Germany and in England is here revealed. Our Civil Service is an independent bureaucratic body consisting of the King's servants, which, while standing outside Parliament, confronts it and addresses it in the name of the Government. The English Civil Service is literally controlled by Parliament, and all its officials can be summoned to appear at the bar of either the Upper or the Lower House.

All these elements have combined to create a State much to be admired, no doubt, but no more democratic in spirit than the House of Commons is in composition. It is a surprising thing that

that body should ever have come to be spoken of as a popular assembly. Until 1832 not one of its members owed his seat to the free choice of people. Pocket boroughs were not the exclusive privilege of Peers; in the great towns too, as in Germany during the eighteenth century, the Parliamentary vote was controlled by a handful of town councillors, whose numbers were renewed by co-option. In Portsmouth, whose population even before the first Reform Bill had reached over one hundred thousand souls, the electors numbered only sixteen. It is ridiculous to be asked to regard as a popular assembly a House elected under such conditions, and which possesses qualities of quite a different order.

The fact that the candidates for election were always drawn from the aristocracy enabled its members to enter public life at a very early age, and the younger Pitt to become Prime Minister at the age of twenty-three. Thus it was possible for the aristocracy to train its political heirs in its own school. The Prussian bureaucracy also trains its own political successors. The difference is that in Germany the young men are trained by their superiors, whereas in England they are trained by Parliament. It goes without saying that in England no man can hope to maintain himself in power without the support of a majority in both Houses of Parliament at his back. It is astonishing that so predominantly aristocratic a Constitution could ever have appeared to a continental student as an amalgam of democratic, aristocratic, and monarchical elements. The truth is that democracy was non-existent,

that monarchy had become a shadow, and that a powerful, well-organized aristocracy alone survived. These conditions of course cannot afford to be weighed in the scales of the moralist. Only two methods were practical in attempting to influence such a powerful oligarchy, and both were occasionally employed at the same time by the same Ministry. Either the mind of Parliament must be persuaded, hence the great power of oratory; or else, in Sir Robert Walpole's words, "The wheels of Parliament must be oiled." Enormous bribes were continually needed in order to preserve the Government's majority; corruption became systematic, and one of the officials of the Treasury still retains the bombastic title of "Patronage Secretary." Such an aristocratic system could never be kept alive if there were not a good chance of becoming rich in its service, and only the very few realize with what perfect unconcern Englishmen themselves are prepared to admit this fact. There are some characteristic English lines to the effect that other States are governed with the full rigour of the law, whereas in England the State is maintained by the gentle bonds of friendship. Existence under such circumstances may be very agreeable indeed, but it is absurd to hold them up as a pattern to the stern sense of justice which governs the German conception of the State. The German plan of filling minor posts in the public offices with discharged non-commissioned officers, who, after all, have deserved well of the State in their modest way, is far more equitable than the English custom of distributing such

places amongst the old servants and ex-flunkeys of noblemen.

So the old British Constitution rattled along, held together by some mysterious inner cohesion which would instantly have been destroyed if any part of the machinery had been tampered with. Since the close of the eighteenth century, however, the middle classes have steadily grown in strength and power. New classes with hitherto undiscovered claims were brought into being by the great manufacturing industries and knocked peremptorily at the gates of Parliament. The younger Pitt quickly discerned the symptoms of this new social formation. No sooner had the French Revolution broken out than he eagerly began to urge a reform of the franchise in order that at least a part of the House of Commons might represent the working-classes of the people. The great struggle with France which ensued absorbed the whole life of the nation for many years, during which Pitt's reforms had to be postponed. The old order of things survived until 1830, when the democratic movement had become too strong to be resisted any longer. Popular forces had become so powerful outside that it was necessary to admit their representatives to some proportion of influence in public affairs. The first Reform Bill became law in 1832, and has since been followed by three others. By that measure the electorate was doubled, and in half the constituencies the vote of the middle class thenceforward predominated.

The attitude of the House was now fundamentally transformed, and the old aristocratic

parties doomed to disappear. The House of Commons has to a great extent emancipated itself from the control of the House of Lords, and may to-day be regarded as a genuinely popular assembly. The importance of the Peers is substantially diminished, especially when compared with what it was in the eighteenth century. These social changes have entirely altered the aspect of the House of Commons, in which proud scions of the nobility sit cheek by jowl with bankers and chairmen of railway companies. Nearly a third of the members of the Lower House are railway directors, and it is easy to understand the significance of such a fact in a country which has more railways than any other in the world. The strife of parties, which once consisted in a monotonous contest for power between two aristocratic factions, no longer centres in struggle for office, but has developed into a conflict of social forces and rivalries, to which denominational animosities were added when Irish members took their seats at Westminster. This Irish crew has been shot like some foreign body into the heart of the House of Commons, and, after the fashion of our Polish deputies, lurch first one way and then the other.

On close examination the two historic factions will be found to have split up into at least six groups, which only remotely follow the lines of the old aristocratic parties. These groups contain men who seek to promote the interests of the working classes, but whose views approach very near to Socialism. The old appellations of Whig

and Tory have nearly passed out of use, and have been replaced by the hollow names of Liberal and Conservative, borrowed from the Continent; in England they are peculiarly inappropriate, for the Whigs were always the haughtiest section of a haughty aristocracy, and it is a mere accident, due to a fortuitous connexion with the financial interests of the great towns, that made the Whig party occasionally appear to lean to liberal measures. The illuminating fact is that there was no fundamental difference of principle between the two aristocratic parties, both of which have in turn attacked and defended long Parliaments, Irish Reform, Catholic Emancipation, etc., according to whether they were in or out of office.

Not only have repeated reforms altered the character of the British Parliament, but the time-honoured tradition by which the gentry carried on the local government of the country has long been undermined, and is to-day almost at an end. It is obvious that the old Justices of the Peace must be inadequate to the political control of the complicated conditions of modern urban life. A great central police authority was first established in London and given a half-military, half-bureaucratic organization on the Continental pattern. The Poor Law was reformed and a Board of Public Health introduced.

The Justices of the Peace have been succeeded by the County Councils, who appoint paid officials to conduct public business. The general principles of administration are in process of transformation, and the final result cannot yet

be foreseen. The ancient boast that every noble landlord was a born adviser of the Crown is rapidly being transformed into a patent untruth by changes in the economic conditions of the nation. The immense power of capitalism tempted the Peers themselves to gain some control of that engine of influence by taking part in financial speculations. Since railway "kings" and cotton "lords" have become masters of the State the House of Peers has sunk into the shade; but the British aristocracy is at once so wealthy and so politically astute that it is not unreasonable to hope that it will be able to adapt its course to the altered institutions required by the advent of new social forces.

This rough-and-ready sketch-picture of English institutions and their recent development shows once more, and very plainly, how frivolous it is to attempt to transplant institutions which have their roots in the history of the country in which they originate. Experiments of this kind have always failed. In France Montesquieu's teaching, which implies a complete misunderstanding of English political thought, came to be amalgamated with Rousseau's doctrine of the sovereignty of the people. They are no more akin than fire and water, but the *Contrat Social* became the rage in Europe just as the *Esprit des Lois* had been. Rousseau taught that freedom was alone secure under the one and indivisible authority of the Nation. As no single individual is superior to any other, he, in fact, obeys only his own will in submitting to the will of all. Herein is con-

tained Rousseau's tremendous fallacy, which all radicals have shared, and which, though a patent delusion, has nevertheless fascinated the minds of men. It is quite easy to detect that the doctrines of Montesquieu and Rousseau have often been simultaneously entertained by political thinkers. The addled brain of the Abbé Sieyès was crammed with the dogmas both of the *Esprit des Lois* and of the *Contrat Social*, and the French Constitution which he drew up was founded upon contradictions and foredoomed to failure. When it was suspended it was at once apparent that the idea of the indivisibility of the people's sovereignty had sunk infinitely deeper into the minds of Frenchmen than the idea of constitutional checks and balances. Finally nothing remained but the undivided Convention and its undivided guillotine. The inexorable logic of the situation at last led to the annihilation of the sovereignty of the people through its most complete embodiment "l'homme-peuple," Napoleon. More recent attempts artificially to reproduce English institutions on French soil have also failed. When we consider the types produced to-day as the finest flowers of French civilization, we cannot but be struck by the prophetic insight of the two men who, in their own time, were denounced as reactionaries, Burke and Genz. Has not the latter's terrible dictum — "France will drift from one form of Constitution to another, and from disaster to disaster"—been confirmed even in our own time?

Similar experiments have succeeded better in

Germany, Belgium, and Italy, partly because in these countries Rousseau's ideas have had less influence, partly because in them the more practical though somewhat mechanical contrivances of Montesquieu were more acceptable than unadulterated Radicalism. In Belgium the Monarchy is a shadow raised into transient importance by the great political ability of Leopold of Coburg, the founder of the dynasty, which, because it was imported, was incapable of asserting the legitimate rights of the Crown against the encroachments of the people's representatives. In that respect it offers some analogy with the history of the Guelphs in England, although the principles of the respective Constitutions differ fundamentally. Under the Belgian Constitution all authority emanates from the people; a King hemmed in by such an axiom is no longer a Monarch in the true sense. In Italy, too, the position of the dynasty is full of difficulty; its title to the Crown has not the same origin in all parts of the Kingdom, and is only hereditary in certain portions of it. A small proportion of the population owes a traditional allegiance to the House of Savoy, while the vast majority have accepted it by periodical plebiscites.

In Belgium as in Italy there is a fixed order of succession to the throne, but in both the Monarchy rests upon a more or less democratic foundation, and the constitutional and parliamentary arrangements, originally borrowed from England, have consequently undergone some inevitable changes in a democratic direction. In Germany things are quite different; faith in

Monarchy, and in the indefeasible right of native dynasties to rule, is still a living force. This faith, which is inseparable from our deeper and more historical conception of the State, could not fail to find expression in our constitutional system. These German conditions will be the object of our further inquiries. Thiers' saying that the king should reign but not govern may be well suited to an aristocratic republic such as Poland, and yet this favourite expression of the oligarchical view of freedom is thoughtlessly endorsed even amongst ourselves by men who call themselves Liberals. Most of us, however, take it for granted that our Constitution means what it says, and that the power of the Crown is genuine and living. The nature of a Constitution is tested by the question whether or not the principle that executive authority is centred in the Crown retains effective vitality. The reply will show the line of demarcation between the aristocratic Constitution of England, the democratic Monarchies of Italy and Belgium, and the constitutional Monarchy as it exists in Germany and especially in Prussia.

To secure that heredity of the royal office, the rational justification of which we have already considered, it is necessary first of all to establish a regular order of succession to the throne. The descent of the Crown in the male line has always proved itself the most adequate means of ensuring this end, for it avoids the risk of frequent changes of dynasty which involve great dangers in countries where monarchical sentiment is strong. For such changes sever one

of the strongest political bonds which can unite a people, namely love and reverence for a native dynasty.

Another bulwark of Monarchy is the strict regulation of royal marriages. In this matter political interest must be given due consideration without much regard being paid to the wishes of Phyllis and Corydon, which are irrelevant to the political question at stake, though a marriage of inclination which coincides with political expediency would of course be doubly desirable. Democratic platitudes should also be avoided. The rules relating to equality of birth as applied to royal marriages on the Continent are well founded. It is not desirable that princes of the blood should ally themselves with subjects, or that the descendants of subjects should occupy the throne. Although the early life of the Emperor William I. was turned into a tragedy by the enforced sacrifice of his love for Elise Radziwill, his father was justified in demanding it for other reasons besides inequality of station. We could not wish a Radziwill to be our queen if we reflect for a moment upon the encouragement of faction within the State which would inevitably have resulted from the elevation of a private family to such an exalted height. In comparison with such a marriage, an alliance with one of the reigning houses of Europe is infinitely more advantageous, if only because those houses are so linked together by ties of blood as almost to form a single family, with whose interests and concerns it is necessary for a powerful dynasty to be connected.

After Henry VIII.'s hymeneal prodigies, it was enacted by the English Parliament that its assent should be necessary to the validity of any royal marriage in England. Such an affront to the Monarchy can only be explained by the terrible experiences which England has undergone in this respect. No private person at the present day would endure such a restraint upon his individual action. A man may tolerate intervention by his family, but to be compelled to accept the tutelage of an entirely external authority in such a question is unworthy and unbearable. These legal provisions have in practice produced much the same result as we experience in Germany, for Parliament only recognizes royal marriages when the contracting parties are of equal birth. All the world knew that the Duke of Cambridge had for years been united to an actress, and yet it was possible for a Minister publicly to say, "I dare affirm that H.R.H. the Duke of Cambridge is not married to any one." In the eyes of the law this was the exact truth. The public mind is penetrated with the conviction that the community of royal families represents a power which no single reigning House standing alone can afford to challenge or disregard.

One of the principal weaknesses of monarchy lies in the possibility that the head of the State may be either a minor or of unsound mind; in the latter case his removal is far more difficult than it would be in a Republic, where he is either not re-elected or may be compelled to retire. A sovereign cannot be subjected to such an external power, since he is by definition responsible to no

one. Hence a regency has always been regarded as a misfortune, and has always been curtailed by every available means. It is no folly, as superficial satire would have us believe, but sound sense, that our monarchs attain their majority and assume the reins of government at eighteen. The underlying motive of such a daring expedient is the dread of a regency, which seems so distasteful an alternative that even the government of a youth of eighteen is preferable to it. The practical failure of regencies is taught on every page of history. Their formation is a matter of the greatest difficulty, and under our Constitution is regulated by very precise dispositions. These provide firstly, that the agnates of the family shall meet together in order to decide whether a sovereign or heir apparent is competent to govern; secondly, after their decision has been confirmed by the Diet, the oath is administered to the agnate next entitled to the regency. The incalculable chances of life defeat the most precise and skilfully formulated enactments. It is easy to lay down the general rule that mental disease shall suspend a man's legal personality, but as medical science has so far discovered no infallible rule in this matter, the intervention would probably come too late in the case of a sovereign as in that of a private individual who is placed under restraint by an ordinary right-minded family. The idea of deposing a legitimate ruler has something so repellent to the public conscience of a monarchical State, and at the same time a weak-minded sovereign is so convenient an instru-

ment in the hands of interested parties, that when such a calamity arises dissensions cannot fail to ensue. It is very likely that the complications which arose in Prussia in 1857 sprang from the excessive prolongation of the too often renewed appointment of Prince William to represent his brother; after the first three months of Frederick William IV.'s illness it became apparent that he would never again be of sufficiently sound mind to conduct State business. The refined susceptibilities of those who surrounded the stricken sovereign, and the generous disposition of his younger brother, shrank from pressing his claim to the regency as senior agnate. The nomination to represent the Crown was thrice renewed, and only after the lapse of three years was a regular regency installed. This delay need not be regretted, for it revealed the secret calculations of faction.

An ugly contrast with these events is evoked by the partisan struggles in the British Parliament after the mental seizure of George III. The repeated attacks of lunacy which afflicted that monarch brought to light how little reliance can be placed upon the profession of English political parties. The Prince of Wales having ranged himself amongst the Whigs, they hastened with sudden demonstrations of loyalty to declare that the regency belonged to him as of right, notwithstanding that it had previously been the distinguishing mark of their party to champion the rights of Parliament against assertions of prerogative by the Crown; while the Tories, on the other hand, maintained

that this right must be conferred on him by Parliament.

Such agitations may imperil the very existence of a State, but we have been taught by the Bavarian precedent that a country may endure without danger even the melancholy fate of an indefinitely protracted regency, provided that legal measures have paved the way for such a contingency. In the Bavarian case one insane king has succeeded another for, as King Otto was incurably mad even before his accession, and therefore incapable of any valid act of will, absolutely no legal means existed of bringing about his abdication. The question was raised whether it would not be preferable that Prince Luitpold should at once ascend the throne, but it was deemed inadvisable to vary an order of succession the stability of which lies at the root of the monarchical idea.

What are the further disabilities which may be said to incapacitate a monarch for government? In former times the answer was a simple one. No man could receive the electoral hat unless fitted to lead an army. To-day the personal direction of military operations by the sovereign is no longer indispensable. Blindness is the only bodily defect which is an absolute barrier to the practical exercise of the office of ruler; for, although it has not a deleterious effect upon a man's mental faculties but is compatible with great sagacity and may develop a profound knowledge of human nature, yet in the case of a blind monarch, the grave question of the royal signature is involved. There can be no certainty

that the document which he has signed is the one which has been read to him. Everything depends upon the honesty and good faith of a secretary. For this reason no great States have ever tolerated blind sovereigns with the exception of the Byzantine Empire, whose example should be as deterrent in this respect as in others. We need not here consider phenomenal exceptions like the great blind Doge of Venice, Enrico Dandolo, who, in spite of his infirmity, conducted a naval war, conquered Constantinople in person, and rendered other invaluable services to the State when over ninety years of age.

We have here to deal with the question whether or not blindness should exclude from the succession, and we must regretfully admit that Germany is the only country in which blind men have been permitted to rule in modern times. The succession of George V. of Hanover was a European scandal. One scarcely likes to hazard a guess as to what that unfortunate prince may have been induced to sign. Furthermore his accession was a flagrant violation of immemorial right. As an Electorate of the Empire Hanover had remained subject to the provisions of the Golden Bull, which stipulates that blindness should be a *notabilis defectus*. Moreover it was an hereditary ailment in the Guelph family, by reason of which many of its members have been silently forced to renounce their claim. It was all the more outrageous that King Ernest Augustus should have taken steps to secure the succession for his son in defiance of family compacts as well as of the dictates of reason. The poor blind gentleman

himself gloried in his accession in spite of his infirmity, and saw in this event a direct manifestation of God's will. Mecklenburg can also point to a blind Duke in the roll of its rulers, but in such dwarf States these things do not matter, for in them history dissolves into anecdote.

According to the letter and to the spirit of nearly all constitutions, the king is inviolable in his person as well as irresponsible for his acts, for this is in the nature of things. To govern and at the same time to be held accountable for acts of government is incompatible; no one can be made answerable for his acts until they are past. When Republican officials are called to account they are suspended; but a king, being irremovable, is for this reason, if for no other, precluded from accountability. The necessary consequence of the king's personal irresponsibility for his acts as ruler is that the constitutional responsibility for them falls upon the shoulders of his Ministers.

Ministerial responsibility is another subject which has become the shuttlecock of partisan theorists. What really matters is political responsibility, and that cannot be taken too seriously. To struggle with the susceptibilities of public opinion, to overcome the resistance of opponents, and yet perhaps after two years to find one's self discarded like scrapped iron, is but an ungrateful prospect. Political responsibility is an extremely serious matter, whereas legal responsibility, in the usual acceptation, for political acts is of very doubtful efficacy. In every well-governed constitutional State there

must be some form of administrative jurisdiction to which even Ministers are liable. These legal safeguards are valuable and form a guarantee against ministerial caprice; on the other hand it is more than doubtful whether the right to bring an action against Ministers is as precious as constitutional theorists formerly supposed; and in our own Constitution it is unsupported by an executive clause. As a rule this liability of Ministers to prosecution for their official acts will not be found satisfactory; in practice I am aware of no instance in which such proceedings were conducted with convincing impartiality. A Minister who has committed an offence may be cited before the Courts like an ordinary subject even if the offence has a political character. There are, in fact, no political crimes peculiar to Ministers as such. Ministerial indictments always spring from conflicts of authority between Parliament and Government; impartial justice is therefore rarely if ever possible.

Strafford, the unscrupulous Minister of Charles I., had the letter of the law on his side, for the Stuarts seldom departed from strict legality, which is a point of material importance to the subject. They continued to do what the Tudors had done throughout the sixteenth century: they made use of the dispensing power, which rested upon no Act of Parliament, but which was supported by innumerable precedents from the reign of Henry VII. to that of Elizabeth. The difference was that the Tudors exercised their power for the good of the country, the Stuarts

theirs to promote rank tyranny. Strafford's trial raised a purely political question; it was a struggle for power, and it must be admitted that Strafford lost his life illegally.

Similarly, the proceedings against Charles X.'s Ministers also bear the stamp of a partisan trial. What was the charge brought against Polignac? He had made high-handed use of Article 14 of the Constitution, which conferred upon the king the right to issue decrees of his own authority in cases of emergency. That that article had a valid existence is shown by the fact that its abolition was the first act of the victorious opponents of the fallen dynasty. Such a step would have been superfluous if the late King's Ministers really had violated the Constitution. It is very doubtful whether their conviction could be maintained at law or whether their punishment could be equitably defended; they were probably the innocent victims of the innate French craving for a scapegoat when things turn out badly, a characteristic which is constantly revealing itself anew in times of peace as of war, and to which Bazaine also was sacrificed. As Moltke has shown, his offence could not by any possibility be construed into an act of treason. The law cannot compel a general to be a genius, and Bazaine certainly was not one.

We have had some unpleasant experiences in Germany also in connexion with Ministerial trials. Hassenpflug, one of the ablest and unworthiest amongst the Ministers of our minor States, was three times impeached by the Diet of Electoral Hesse. The Hessian constitution con-

tained a provision obliging the Chambers to impeach a Minister whom they believed guilty of high treason. This was stigmatized as official encouragement of German quarrelsomeness and self - righteousness. Nevertheless Hassenpflug found a distinguished constitutional jurist to defend him and was repeatedly acquitted, in my opinion rightly, by the Supreme Court of Appeal, which was by no means disposed to favour him. His object was to undermine the Constitution, but it was impossible to give evidence of facts which would have proved such an intention. It is the art of individuals like him so to cover their game that the arm of the law cannot reach them.

All this explains why Ministerial impeachments are antiquated in England since the regular alternation in office of the two great parliamentary parties has become a matter of course. Since the reign of Queen Anne, which saw the last attempt to impeach a Minister of the Crown, it has become an axiom with every successive administration to let the waters of Lethe flow over the past. When one of the parties comes into power it knows very well that it may go out the following year, and that it would then be its turn to have its dirty linen washed in public. Such is the quixotic calculation which makes each party in succession agree to bury the past deeds of its rival in oblivion. This unmitigated party-system cannot fail to produce a certain slackness in public morality, a certain coarsening of political sense of honour. Under George III. a political trial once more took place, this time not of a Minister in the narrow sense, but of a

Governor-General of India. Even the trial of Warren Hastings presents the aspect of a conflict between two political parties, who chose this arena in which to measure their strength.

The weapon of impeachment was thus silently eliminated from the armoury of party warfare for reasons of tactical expediency which commended itself to both sides. For even in countries where Parliamentary Government is otherwise understood, as on the Continent, this double-edged sword is of very doubtful value, if for no other reason, because no provision exists for the composition of a court competent to try such cases. In England that point presents no difficulties, for the House of Lords is the legally established tribunal before which an impeached Minister is cited to render account of his acts. As the principal Ministers are peers, it is evident that they can only clear themselves before other peers. In continental States a solution of the problem is not so easy, and our Upper House, for example, obviously does not lend itself to a hasty transformation into a court of justice for the trial of accused Ministers. For such a purpose the aristocracy in our country no longer enjoys a sufficient consideration amongst the people, who would never believe that such a Court had not taken a partisan view and had not returned a verdict dictated by a conservative bias. Our Upper Houses not having the necessary competence to deal with such cases, it was proposed, amongst other remedies, to bring them within the venue of the High Court of Justice. But this tribunal is ill-adapted to try political causes by

reason of its dependence on the Minister of Justice, who may be a party in cases to be adjudicated by it and who has a large share in making appointments to the Bench. Another expedient was therefore devised, whereby a body of lawyers of repute nominated *ad hoc*, partly by the Crown and partly by the Chambers, is summoned to sit as a Court of Justice; but even this arrangement offers great scope to partisan verdicts. The nominees of the Chambers in the small German States were always men who could be counted upon as aggressive partisans.

The net upshot of all this is that little good can be expected from saddling Ministers with legal responsibility. There is on this point a gap in Prussian law, which I should like to see remedied so as once for all to silence the Radical cavillers, who are for ever whining at the inadequacy of Constitutional guarantees. It is, however, dangerous to raise hopes too high. Public opinion may easily become inflamed in favour of one side or the other, and a Court, however composed, will be more or less influenced by it. Had the article of the Constitution dealing with Ministerial responsibility been carried out, and had a tribunal been seized of the matter at the time of the Constitutional dead-lock, one may well ask whether its verdict would have carried any weight, however framed. The letter of the law told against the King and his great Minister, but the letter of the law was resisted by a material obstacle: supplies had not been voted and yet the Government must be carried on. Such questions no longer belong to the domain

of law, for they do not admit of a clear and final solution. If it were humanly possible to form a tribunal to settle such problems, which could hold out a hope of satisfying the moral conscience, it would be seized upon with enthusiasm by all parties; but where should it be found? Security from violation of the Constitution, even when perpetrated by a Minister, should be sought in a regularly organized administrative code rather than in measures of such difficult application as those already referred to. The whole doctrine of Ministerial accountability before the law belongs to a bygone school of political thought, of which Rotteck and Schlosser were disciples.

Under a monarchy in which the whole authority of the State is centred in the person of the King, it follows that the choice of ministers must lie with him, and that they must become the instruments of his will. Only on these terms can the monarchy perform its duty of standing above parties. It has been contended that the independence of Ministers versus the Crown should be safeguarded since they cannot otherwise be held responsible by Parliament, for no one can be drawn to account for things which he has not done of his own free will. Nevertheless, it is a fact that divergencies frequently arise between the will of the King and the will of the Chambers. If we examine this aspect of the matter, which was given such careful attention by Mohl, it will appear that wherever monarchy is more than a name, these divergencies always do in fact occur, and that the will of the King often differs very materially from the will of the representatives

of multifarious interests. The healthy development of our Constitution requires that this antagonism should be allayed, however unpalatable the task may seem to the Minister to whom it may be confided. The theorists who would abolish it by a mere fiat conveniently forget that Ministers are responsible not to the Chambers alone, but also to the Crown.

Calm and lucid reasoning leads to the conclusion that the existence of the Monarchy itself is involved in the solution of this question. If it be true that the essence of Monarchy consists in the concentration of the State's authority in the King, it is obvious that that system is vitiated when the King can be coerced by Parliament in his choice of counsellors. The assertion that it is the final end of constitutional Monarchy to evolve into a system of Parliamentary Government on the English pattern, that is to say, government by a fleeting majority in one House only, is the negation of Monarchy itself. Where and by whom is it laid down that Germany with her glorious history is bound to follow in the footsteps of an island State, of which one may roughly say that where it is strong we are weak, and *vice versa*.

We have, it must be admitted, imported much shallow clap-trap from England, such as the avoiding of the King's name in Parliamentary debates. With characteristic hypocrisy Englishmen profess to consider that the name of the King should no more be taken in vain than the name of God. The will of the King has no weight whatever under this Guelphic monarchy,

whose founder could not speak the language of his subjects, and who therefore could not preside over the meetings of his Council. It is a matter of no consequence what Queen Victoria thinks on any political question, and yet we are asked to accept the system under which she reigns as a model for our own country, where, after all, the Sovereign understands German very well. In Germany the King's will still has a very definite meaning. This truth applies with special force to Prussia, which is alone in still having a monarch whose authority is underived or *sui generis*. In our country a minister need not hide timidly behind the Sovereign, but there is no reason why he should not, in a given case, warn Parliament against coming to a certain decision by announcing beforehand that it would never receive the Royal Assent.

The briefest survey of our present Parliament will show how ridiculous it would be to attempt the establishment of party government, more especially as the text of the Constitution of the Empire is contrary to such a project. The Chancellor, who is the only responsible Minister of the Crown, is entrusted with the execution of the decisions of the Federal Council (*Bundesrath*), consisting of the representatives of twenty-five separate Governments; he is therefore under the obligation to represent views with which he may very possibly disagree, and of championing in the Reichstag the interests of twenty-five different sovereigns. The Imperial Constitution enacts that no member of the Federal Council shall also be a member of the Imperial Diet, and

further, that all the chiefs of the administrative departments shall *ipso jure* be members of the Federal Council; hence a Parliamentary form of Government is a constitutional impossibility. I trust that you will carefully ponder these things in order to realize that there is an inherent fallacy in attempting to cast German institutions in an English mould. We all have cause to rejoice that we possess a vigorous-minded Civil Service, which, by its achievements, its social standing, and by the support of the Crown, wields a genuine power, and we need desire no change in this respect.

The French have been foolish enough to preserve English forms of Parliamentary life while adopting a Constitution at bottom incompatible with them. The attractive American pattern of a Constitutional Republic does not admit of parliamentary government, and for good reasons. The President, being a responsible official, must govern in accordance with his personal convictions, for no one can be responsible except for what he has himself resolved. Parliamentary government is possible in a monarchy when the monarch is not held responsible, whereas such government is practically impossible in a republic. As Presidential elections in the United States are generally held at no great interval of time from Congressional elections, it often turns out that the President and Congress are of the same mind; but this is not inevitable. After the death of Lincoln, his successor, Johnson, found himself in continual conflict with Congress, which failed in its subsequent attempts to call

him to account for his administration. This is conspicuous proof that the Government of the United States is not conducted on parliamentary lines.

The French discerned rightly that a President who is responsible for the administration must wield a very effective power, and the fear of it induced them to adopt the anomaly of a President bound to a parliamentary system of government. He can be personally called to account only for a *coup d'état*; in ordinary cases ministers are responsible, not the President. All this is very characteristic of the French nation, which lives in perpetual fear of another 2nd of December, but on the whole desires that Ministries should be the sport of faction, and that an irresponsible President should govern through responsible ministers. Who shall say how many Ministers of the Interior France has had since 1870? A short time ago they numbered twenty-one; by now they may have had twenty-four. What is the practical result? When more than twenty-one ministers have succeeded each other in as many years as the heads of a department with such vast ramifications as the Ministry of the Interior, the inevitable consequence must be to make the permanent officials omnipotent. The bureaucracy tightens its grip more and more, and the continual change of ministers confirms the sway of stupid routine. Such a system cannot be desired by any one who wishes the Civil Service to breathe a wholesome spirit. To sum up, it is clear that a purely parliamentary *régime* is unsuited to German conditions. This

is no cause for complaint; on the contrary, we must congratulate ourselves that our Constitutional Monarchy has preserved the character implied by its name.

Thus we are brought face to face with the question of the royal prerogative of assenting to and promulgating laws. All legislation must be initiated by the Crown, in whom is also vested the right of assent and promulgation. The precise meaning of the prerogative of assent has been lost sight of through the prevalence of a Radical theory, which substitutes the blessed word Veto for an accurate description of the positive right of assent. A veto is the right vested in some person or other in protection of his own interests, or of interests of which he is guardian, to forbid a measure complete in itself. This occurs, for example, when a Government decides that a Papal decree has encroached upon its rights, and therefore is subject to the Royal prohibition. This matter, says the State, does not in itself concern me, but in the present case this particular decree prejudices public interests; therefore I intervene. It is an abuse of terms peculiar to colloquial speech to use the negative word Veto in referring to the King's positive right to give the royal assent, that is to say, a *placet* without which no law is valid.

In England matters are arranged as follows. If the King is not in his conscience convinced that a particular measure approved by Parliament is desirable, he has only the choice between a new Ministry and a Dissolution. Even this choice is not entirely free, for the King cannot venture upon either alternative unless his Ministry

command a majority in Parliament or has the certain prospect of doing so, otherwise no statesman of note will consent to form an administration. At the present day the king has no longer a decisive voice in selecting the members of the Cabinet; he summons the leader of one or other of the aristocratic parties and commissions him in general terms to form a Ministry. The example of English conditions had a contagious effect upon the French National Assembly. The idea gained ground that the positive right to give assent should in fact operate solely as a right to refuse it, and the struggle continued to rage round the question whether such refusal should be permanent or merely suspensive. A suspensive veto is no veto at all, for it converts the king into a republican official with a mandate derived from others. These ideas were never more eloquently expounded than by Mirabeau. They finally led to the conclusion endorsed by the Parliament of Frankfort that even in questions affecting the constitution the veto of the Crown shall cause only a temporary delay. On these lines the German Empire might have been legally transformed into a republic without valid objection from the Emperor.

The positive right of assent to all legislation is so essential a prerogative of the Crown that the real power of monarchy stands or falls with it. We have often suffered from the personal intervention of the king and may expect to do so again, but so long as we are monarchists we shall remain convinced that this prospect is preferable to the king becoming a puppet. In Germany

there is very little probability of such a constitutional deformation. We need only remember that our Ministers are the king's servants, who must possess his confidence and require it more than the confidence of the Chambers. In England, Italy, and Belgium the position is quite different, for the balance of power is reversed. In those countries we find government based on party majorities as contrasted with government by a monarchical Civil Service, which on principle stands outside parties.

The German system is not only better adapted to the spirit of monarchy, it also affords a better guarantee of political integrity than any party government can offer. There is literally no country in Europe where the administration is so effectively controlled by Parliament as in Germany, for the reason that in Germany the power of the Government is a real counterweight to the power of Parliament. In England the task of criticizing the administration is left entirely to the Opposition, whose attacks are tempered by the knowledge that it too will one day stand in the pillory; whereas the inquiries of our Parliament are searching and exhaustive just because its members know that they themselves will never be called to the helm. The effect upon our full-dress debates is sometimes almost an offensive one, but they often present a more gratifying spectacle of men who are really in earnest about the removal of every abuse from public life. It is almost impossible to conceive that Spain should ever be delivered from the burden of the crying scandal of her railway

system, for all prominent party-leaders have received presents of railway shares from Rothschild and his Paris friends, and when new men come into office they, too, are gratified in the same way. Therefore no Government will ever attempt to eradicate the mischief.

The impartiality of the royal authority implies independent resources at the disposal of the Crown. Of all the delusions of average radicalism one of the strangest is to extol the cheapness of republican governments in contrast with the lavish expenditure of kings and courts. The extravagance of the Lilliputian princes of Germany, who all wanted to ape the ways of Versailles, is certainly a blot upon our history, but waste of public money has never reached such heights as under the republican *régime* in France, where the Third Republic has made it the order of the day. The Budget must not be made the only gauge of public expenditure; Parliamentary elections and the bribery incidental to them swallow up such huge sums that the expenses of a court are in comparison hardly worth considering. Wealth and brilliancy are necessary to preserve the dignity and influence of the court. Dahlmann said with great truth that Germany paid a heavy price before it got so inexpensive an Emperor. The modern establishment of our courts is on a very modest footing, while the large republics spend immense sums on outward show.

The history of the royal revenue has varied greatly in different countries and in proportion to the extent of the Crown lands. In the older

States it was the accepted practice that the expenses of government should be defrayed by the king from the income derived from the royal domains. In cases of urgent need the great vassals were exhorted to grant aids. In course of time the resources of the royal domains became insufficient to meet the strain put upon them. Already in the seventeenth century taxes had become the rule, while the Crown lands furnished only a portion of the revenue. It gradually became incumbent upon the Government sharply to divide the hereditary revenues of the Crown from the domain of public finance. In this respect Prussia was a hundred years ahead of England, where the Crown lands were recklessly alienated by the kings, partly to meet the expenses of civil war, but more especially to provide the means of oiling the Parliamentary machine. At an early date, in fact in the seventeenth century, the court had to rely on Parliamentary grants to cover the whole cost of the royal household. It became the custom to divide the whole expenditure into two parts: the one to be voted annually by Parliament to meet the needs of the Army, the Navy, Foreign Affairs, and the National Debt, according to the trend of public events; the other, styled the Civil List, to be voted at the beginning of every reign for the requirements of the Civil Service and of the Court.

The attempts to reorganize this eccentric and unsound financial arrangement were protracted throughout the eighteenth century. It could not fail to lead to chaos under extravagant kings,

when confusion had been the rule under the cheeseparing Guelphs. They no doubt occasionally sent their savings to Germany, and of course spent vast sums on maintaining their numerous mistresses and in bribing Parliament. The crude English temperament took pleasure at the beginning of every new reign in having the dirty linen of the last washed publicly before all Europe. Pitt tried to improve a state of things which had gradually become intolerable, but the French Revolution relegated all reforms to the background, and a clear distinction between the expenditure of the Court and that of the State was not established until 1831. The term "Civil List," however, was still applied to the former alone, for Britons have difficulty in discarding expressions which they have got accustomed to. On the Continent, or at any rate in Germany, conditions were more satisfactory, for all our petty sovereigns possessed large hereditary domains, and therefore were not dependent upon the Diets for their personal maintenance. The old constitutional maxim that public expenditure should be entirely defrayed by the revenues of the Crown lands had of course been abandoned, but they were still everywhere sufficient for the upkeep of the Court. The position of the reigning houses was therefore sounder amongst us than elsewhere. Prussia set the example of further changes to all other States. Already, under Frederick William I., the royal domains were declared to be the property of the State, the Crown reserving the right annually to fix a sum for its own use out of the revenue of such domains.

This arrangement was again altered in 1820 under Frederick William III. in such a way that a definite proportion of the total income of the royal domains was once for all appropriated by law to the use of the royal family, which displayed an unparalleled magnanimity in the transaction, for a great part of the Crown lands were originally their family estates. In point of fact the country is not put to any expense in supporting its king, for in the course of historical events a greater portion of the legitimate possessions of the royal house have been transferred to the State than is equivalent to the expenditure of the Court. Had our royal family retained the royal domains as private property it would have enjoyed a far larger income than it disposes of to-day.

Such being the historical position, bitter controversies like those which arise in England are impossible in Prussia. Here the normal condition is that the royal family is supported out of the revenues of what were formerly the royal domains, and therefore finds itself independent of the Prussian Diet. In many of the petty German States the dignity of the Crown was forgotten to such a degree that a Civil List in the full sense of the term has been adopted, by which the income of the Prince is fixed for life, or even, as in Bavaria, for a period of five years. The indecency of such an arrangement should be obvious to everybody. Even a Government official would not submit to having his salary fixed for a specified term of years, and it cannot be desirable to treat the reigning prince

worse than his officials. One cannot resist the impression that, in this respect, many injuries have been inflicted upon the Princes.

I now turn for a brief space to the composition and rights of Parliament. The two-chamber system, which we find established to-day in all constitutionally governed states, has its origin in England, where, as early as the twelfth century, there existed an assembly of barons whose support and assent was necessary to the king; this assembly was the nucleus of the House of Lords. The representatives of shires and cities were first summoned in the thirteenth century, under the auspices of the powerful dictator Simon de Montfort. The great barons themselves felt the need of gaining the support of the Commons in order to resist the despotic fiscal methods of the Crown. The two-chamber system proved so advantageous that, like freedom of association, trial by jury, and local government, it has been copied wherever Anglo-Saxon influence has penetrated. Even the superficial causes of this success are obvious. Every one who has lived in a college knows that it breathes a certain atmosphere, from which the average man cannot emancipate himself. The two Chambers of a Parliament will always act as a mutual corrective, and this co-operation and interaction is highly desirable where such vast issues depend upon the cautious sifting of every question. The moral value of a law is greater when it has been elaborated and adopted by two assemblies rather than by one; a further advantage is that if a conflict arises between the Crown and

one of the two Houses, the other can act as mediator.

Nor must the different composition of the two assemblies be forgotten. If the reason be sought why the House of Lords so long controlled the destinies of England, the answer is to be found in the fact that its members represented the genuine governing classes of the country. For neither birth, nor wealth and landed estates, nor the unknown quantity described as intellectual ability, are of themselves sufficient to provide an Upper Chamber with a sound foundation, the only reliable constituents of which are men who habitually take the lead in conducting local affairs. Political activity invariably placed at the service of the country or of local government on an extended scale is certain to be honoured by all; for this reason the consideration of the House of Lords was extremely great so long as England retained her patriarchal system of local administration. Everybody in those days felt in regard to the Lords: These are the men in whose hands the political future of the country really lies.

A sound Constitution is the indispensable condition of a satisfactory system of local administration, without which the country cannot provide an adequate upper chamber, for it must, in that case, be lacking either in prestige or independence. In this respect the history of French institutions is highly instructive. France has no local Government; the whole nation consists of Government officials and those whom they govern. No Frenchman objects to being held in leading strings

by his prefect, provided that the relationship offers him the opportunity of securing the petty advantages which he covets. Our officials were thunderstruck when the Alsatian notables appeared in their offices in order to begin their trumpery traffic. The French all assume the right to criticize the Government, and even to eject it, but in practice every one submits to official tyranny. According to French writers, who should know their own nation, the provincial communities have no living individuality of their own, and desire none.

It has therefore from all time been impossible to form an Upper House in France consisting of the representatives of the governing class; for that class is composed entirely of officials, and what an Upper House consisting of such elements may become we see in Napoleon's Senate, which was undoubtedly a brilliant assembly replete with talent and technical ability, but totally without independence towards the authorities and servile beyond all precedent. The Restoration took a different line, and set up a Chamber of Peers representing aristocratic and territorial interests. Under Louis-Philippe the Upper House was composed of capitalists, but these purse-proud money-grubbers merely helped to encourage communism. The notion that wealth alone entitles a man to become a legislator is so monstrous that it could not fail to turn the great bulk of the people against all forms of property. Latterly we have seen the French make the most extraordinary experiments in order to create a Senate which might enjoy some

measure of consideration, but without success. This continued failure is due to the fact that a politically vigorous First Chamber is an impossibility unless a healthy local administration exists concurrently with it.

Unfortunately when the German Constitution was framed this fact was not sufficiently realized. In Saxony and other central States the First Chamber is simply the old Diet in modified form, while the Second Chamber contains the popular representatives. It is no wonder that the confidence of the people centres in the latter, while the former languishes in obscurity. In Prussia too, owing to the romantic fads of Frederick William IV., the composition of the Upper House has been a total failure, and this fact would be even more apparent than it is, had not the majority of the "lords" acquired the habit of shining by their absence. It would only provoke derision if all the so-called representatives of ancient and established territorial interests, who populate the boarding-houses of Berlin, were to make their appearance in a body. It is perfectly obvious that the overwhelming majority of our aristocracy is perfectly unfitted to have a parliamentary career. Of course there are many illustrious families in Germany whose pedigree would justify a claim to hereditary membership of a Chamber of Peers; such are the Mediatized Princes of the Empire or the Stolbergs, Counts of the Harz, who are so closely connected with their localities that they would be fully entitled to collaborate in the making of our laws. It is a misfortune for our country that these families

are not more numerous or more evenly distributed. The native nobility of North-East Prussia undoubtedly presents some of the most precious of aristocratic qualities, but it cannot, on the whole, be called an independent and high-spirited aristocracy in the same sense as the ancient houses referred to above ; it has preserved its loyalty to the Monarchy by continually serving it in civil and military employments, and its interests are so closely linked to the Crown that it could never maintain a sufficiently independent attitude in any conceivable Upper House.

It would appear, then, that a purely aristocratic chamber could never in our country enjoy sufficient credit with the people to form an adequate counterweight and complement to the popular Assembly. An Upper House really representative of the governing classes in Prussia would have to include delegates from the great administrative corporations. Let us suppose that the Prussian Provincial Diet presented six of its members to the King every six years as candidates for nomination to the Upper House ; it is quite certain that the choice would fall upon men who had played a part in the local government of the country, or upon great land-owners or great capitalists in some way distinguished by their services. They would provide an excellent storehouse of expert political knowledge ; blended with the hereditary aristocracy, they would form an Upper House sure to command public esteem. But a reform in this sense is no longer practicable, for our Upper House is so unstable a structure that any alteration would infallibly

cause its collapse. The course of development is left to chance. The great majority of the members, including the landlords, no longer present themselves, and the remnant of the Assembly is so insipid in character that it only occasionally sums up courage to readjust the partiality of the Second Chamber by a correcting amendment. However, the potential activities of the Upper House, of which symptoms are so rarely perceptible, should not be too much scorned. It is beyond question that many a foolish proposal fails to find a hearing in the Lower House because it is felt that it is foredoomed in the Upper Chamber.

The Lower House should principally stand for the mass of the tax-payers and be the specifically popular Assembly, representing those who perform the most general duties of citizenship, such as tax-paying and military service; while the Upper House should represent the ruling classes, upon whom fall the more complicated tasks of public life. An immense amount of ingenious theorizing has already been expended upon the proper constitution of a Second Chamber. It is a constitutional axiom that the Second Chamber should be regarded as representing the nation as a whole, and not particular classes within it. It is possible to imagine a Chamber whose members should be chosen from professional categories, but who in their collective capacity had to represent the nation. It is a matter for regret that such caste divisions do not exist in our Second Chamber, so that the peasantry, for instance, remain unrepresented, while the whole

trend of modern culture and all known forms of parliamentary life incline to give the intellectual element an undue political preponderance. Lawyers, men of birth with a classical education and practice in public speaking, officials of all sorts, including many who have imbibed and periodically emit the venom of some fancied grievance: such are the elements which compose Parliaments. A modern deputy is required to have an opinion upon so many subjects that a man of average education will naturally be in a better position to form a judgment upon them all, even though often only a shallow one. The legal mind is particularly well suited to this exercise; Lasker is a good example of the influence which a man without political genius can attain. His talent lay in his rapidity of grasp, and hardly one sitting passed without a Lasker amendment. The peasant's mind moves with difficulty in such an atmosphere; he therefore gives his vote to the townsman who seems to have most insight into rural concerns. How many candidates on seeing their prospective constituents have not wondered in their hearts, "What made such men fix upon me as their chosen representative?" The good folk of the Hunsrück, who once elected me, were a fine and sturdy set, but their only link with me was the recommendation of a few men whom they trusted.

This predominance of the book-learned in Parliament over the plain peasant and artisan is a serious flaw in modern popular representation, against which no remedy seems effective. Suppose

an attempt were made to introduce representation by estates, the question would immediately arise of what those estates are composed, and a candid survey would show that their outlines are no longer clearly visible. The only hereditary caste now remaining is the nobility, which, in its capacity as such, has lost all its ancient prestige owing to its anomalous position. The professional castes are so inextricably intermingled that it would be impossible to make the boundaries between them the basis of franchise legislation. Caste divisions were indeed still the foundation of the Prussian United Diet (*Vereinigter Landtag*), an assembly representing the great and small land-owners and the towns; but already before 1848 this system had become almost unworkable on account of the gigantic changes wrought by the spread of industrialism in the Western provinces. On the Rhine and in Westphalia it is often impossible to say where the village ends and the open country begins. Any system of representation based on caste distinctions could only be artificially produced under our present conditions.

All this has led to the adoption of the principle of universal suffrage and the formation of geographical electoral areas in which all the inhabitants are called upon to vote according to a certain franchise law, or even without one; the choice therefore lies only between universal suffrage and a franchise. The answer is ready to hand: all franchises are arbitrary and must therefore be rejected. This is true enough, but equally capricious is the decree which lays down

a limit of age and calls to the polls every man who came into the world twenty-five years ago. Without doubt there are innumerable young men of twenty-four who are more competent to vote than some of their seniors. Therefore every franchise must become, to some extent, arbitrary; but, broadly speaking, it remains a sound principle to exclude the wholly irresponsible section of society from the exercise of a right which implies a capacity for independent judgment. The democratic current of our century has fostered the idea that the effective right to vote is an innate right of man. Since, however, it is more a duty of citizenship than an individual prerogative, and since it must be exercised for the common good, *i.e.* for the good of the State, it must rest with the State to decide who shall exercise it. This right becomes unreasonable when pushed to its furthest conclusion, and ignores the time-honoured truth long ago laid down by Aristotle, that the greatest wrong is to equalize the unequal. It has but one merit, which is to allay the political mania of Radicalism by applying a homoeopathic remedy, for it makes it possible to meet the wildest Radical with the retort, "You have all got votes, get a majority if you can."

Except for this one advantage, it remains true that in Universal Suffrage a disproportionate share of influence is given to stupidity, superstition, malice and mendacity, crude egoism and nebulous waves of sentiment, all of which introduce an incalculable element into the life of the State. It is a patent error to assume

that Universal Suffrage will always serve Radical interests; it is far more accurate to describe its influence as uncertain. The social conditions in any given province decide which of the social forces will benefit by Universal Suffrage. In our Eastern Provinces, where a real territorial nobility still survives, it operates in preservation of the feudal spirit, for the peasants vote as a matter of course on the same side as their masters. The squire brings his labourers in their hundreds to the polling-booth and there issues his directions; this cannot be otherwise, for it is the outcome of the actual balance of social forces. This kind of influence, however, is an impossibility in industrial districts, owing to the resentment which has accumulated there against employers. There can be no doubt that Radicalism runs riot in these parts of the country. No one but a doctrinaire Radical can suppose that true liberty can emerge from any manipulation of Universal Suffrage. It is visibly tending, on the contrary, towards a weakening of Parliamentary institutions. In the turmoil of economic, political, and ecclesiastical currents no single group can achieve a reliable majority or exercise decisive influence upon Government.

We may, indeed, ascribe to Universal Suffrage a certain power of alleviating the lot of toilers, and in any case, once conceded, it can hardly be repealed. Such a step would call forth a sense of bitterness and injury among the masses that would far outweigh the present disadvantages. The undue extension of the franchise is of moment not so much on account

of the effect upon a particular election as upon the general character of political life. The strongest lungs always prevail with the mob, and there is now no hope of eliminating that peculiar touch of brutality and that coarsening and vulgarizing element which has entered into public life. These consequences are unavoidable, and unfortunately react upon the whole moral outlook of the people; just as the unchecked railing and lying of the platform corrupts the tone of daily intercourse. Beyond this comes the further danger that the really educated classes withdraw more and more from a political struggle which adopts such methods. A corrective to the unreason of Universal Suffrage has been sought in the no less unreasoning and immoral secrecy of the ballot. Its privacy is designed to confer upon weak spirits qualities which they naturally lack. We are fools to prate of the freedom and enlightenment of our age, when we have lost the plainest sense of manly honour. The very liberty of our institutions has introduced forms of moral corruption of which earlier and more submissive generations knew nothing. If the exercise of a parliamentary vote is a citizen's highest duty it should be carried out in a form which free and honourable men need not despise, *i.e.* publicly and with full responsibility. No man can have a true sense of political honour who does not feel humiliated when he slinks up to the ballot-box and slips his paper in. All the reasons urged in support of secret voting are specious. It is not a function of the State to debilitate the moral sense of its

citizens. A real conflict of duties arises when fathers and sons differ in politics. A son must decide for himself whether he places political conviction above filial respect and gratitude, and it is not the part of the State to solve these problems for him.

In England this was formerly never in doubt. Well into the nineteenth century secret balloting was regarded as a symptom of complete corruption. But the notion, which the Press has encouraged, that freedom consists in the evasion of responsibility, has been extended to the polls, and is the result of enfranchising classes who have no real claim to vote since they are incapable of independent judgment.

A curious ignorance of practical affairs lies at the root of the whole matter. In rural constituencies and small localities it is usually quite impossible for any man to hide for whom his vote has been cast. Even in towns there are all kinds of little ways of finding out how this or that individual has voted. The next step is to adopt the shabbiest trick that ever was proposed in the name of Liberalism; and which consists in the expedient of sending the voter to a tavern, there to deliver his vote in a sealed envelope provided by the Government. What manner of proposal is this to make to honourable men? Manly courage is utterly undermined by such subterranean methods on the part of the State, which artificially propagate hypocrisy among millions of working-men, who have no real choice in the matter. The immorality of such a system is beyond dispute, and anything

which a respectable individual would regard as dishonouring must have a deteriorating effect when practised on the whole community. In this question, however, our enlightened century has become so narrow-minded that all hope of improvement in respect of it has vanished. A generation is growing up which we have deprived of the power of plain and straightforward judgment, and the consequences will be only too often and too sadly revealed. These are ethical far more than political questions.

Let us now turn to the consideration of the rights of popular assemblies. They may be divided into three categories: the right to control administration, the right to collaborate in legislation, and, lastly, the right to grant supplies. The test of what our Provincial and Imperial Diets have accomplished is to be found not in what they have achieved but in all that they have prevented. Political experience shows that every governing class, if left to itself, becomes either stereotyped or corrupt. The rough-and-tumble of a popular Assembly is well calculated to resist this tendency, and I have already shown that this check is particularly effective in States which are not subject to party-government.

Here we see the great merit of the German parliamentary system. It leads to much useless talking, gives scope for much unnecessary clamour and petty jobbery, but when all is said and done it has great advantages. We are indebted to the watchful care of our Parliament, cantankerous though it may sometimes be, for

the virtual elimination of corrupt practices from our administration. There is no saying how far this influence extends. A highly-placed officer once said to me that the Army itself would not be in its present efficient condition without the Reichstag. Army administration must exert itself to avoid everything which could lay it open to criticism, because there is always a group of privileged cavillers in Parliament ready to beat the big drum about every little failing. If it were possible amongst us, as it is in England, to rise from the parliamentary ranks to be Minister of War, what happens there would also happen here: criticism would be tempered by the reflection, "Your turn to-day, mine to-morrow," and our Army would become accessible to the same abuses as hers. This brings us to the crux of the matter, which is to ascertain the truth of the comparison so often made between the alleged freedom of France and England with the slavery of Germany. Although as a rule our members of Parliament cannot become Ministers we have the far more important advantage of an honest and effective control of government by Parliament.

Next amongst the chief rights of Parliament comes collaboration in making laws. In England, where Parliament governs, Bills are usually brought forward by the party in power; while, on the Continent, it is the general rule that new legislation should originate with the Ministry although Parliament possesses the technical right to initiate it. Our Parliaments frequently demand legislation, but leave the drafting of Bills

to the Government. It is needless to dwell upon the fact that without this co-operation of Parliament, laws in harmony with the ethical instincts of a thinking people cannot be framed. The technique of legislation has suffered much through the parliamentary *régime*. Its tendency to compromise has introduced every variety of implied and palpable contradiction into contemporary laws. This undeniable defect, however, is not sufficiently grave to outweigh the advantages of parliamentary co-operation.

Lastly comes the right of the popular assembly to grant supplies. In this connexion the most singular prejudices are rampant. The conventional and primitive notion is as follows: since most Constitutions explicitly mention the voting of the Budget, the Chamber may reject such of the Estimates as it pleases and reduce taxation accordingly. Here again we see how strongly bygone class-conceptions survive in modern Liberalism. The State is the enemy to be resisted, and every request which it makes for money is *ab initio* suspected as unjust and tyrannical. It is the Chamber's duty to keep a tight grip on the purse-strings, and if the Government does not resist, it starves. Is not this the exact counterpart of the ancient notion that Parliament day was pay-day, and that the Government was a wild beast which must be caged as long as possible?

When we turn to the subject of national finance, we see at once that a distinction must be drawn between revenue and expenditure. In every conceivable kind of Constitution the

outgoings fall into three different classes: Standing expenses, classified according to their amount and their character, such as the interest on the National Debt, official salaries, etc. A State which has contracted a Public Debt is bound to pay a certain sum in interest on that debt every half-year, and the legal obligation to do this is created not by the Budget but by the law which authorized the creation of the Loan. The Budget, generally speaking, does not create legal obligations, but the expenditure proposed by it arises out of previous legal contracts, which have usually already been embodied in laws. Now, who was the author of the laws in virtue of which these sums became payable? Without doubt the King and the two Chambers, whence it follows that the Second Chamber by itself is not at liberty to cancel such payments. This is obvious, and was practically admitted even by the party of progress at the time of the constitutional struggle. They were themselves incapable of carrying a Budget, though there was a chorus of denunciation against a Budgetless Government; but any man amongst them who happened to be a Government creditor or public servant still went quite naïvely every quarter-day to collect his interest or his salary. The extravagances of their theory were thus refuted by facts. An official has a legal claim to his salary, and if it be not paid to him, he can take action at law and must receive his rights.

There is in every State another section of public expenditure which, while resting on the same legal foundation, is by no means equally

invariable in its amount. When, for example, the creation of new cavalry regiments has been approved by law, the necessary expenses will include certain fixed items, such as officers' salaries; while, on the other hand, the cost of food for the men and fodder for their horses cannot be laid down beforehand. But once the measure has been passed, the expenses incidental to it must be paid, however much the price of a particular commodity may vary. The task of the Provincial Diet (*Landtag*), in regard to these items is, therefore, somewhat different from that which it performs in relation to the first-mentioned category of expenditure. In the former case its function is merely supervisory; it audits accounts and sees that all is in order, but its actual sanction is not here required. Its control has a wider scope with regard to the second class of expenditure, and here too, with regard to the items which have fluctuated with prices, it may examine whether due economy has been practised. When the creation of a new tribunal has been decreed by law, and the Landtag considers the appointment of two councillors to be excessive, it can suppress their posts for the future, although no civil servant already provided with a post can be dismissed from it without another being found for him elsewhere in Government service. For the rest, the Landtag has the right to ear-mark for suppression everything which it considers superfluous. There is a third class of expenses which are neither fixed in amount nor sanctioned beforehand by law. Under this heading come

all the new demands made upon the Landtag, which that body is perfectly at liberty to deal with as it pleases.

If it were possible to fit facts to theories, the simplest course would be to arrange the Budget in three sections in accordance with these three classes of expenditure. An attempt has been made to draw up two Budgets, the one to deal with fixed, the other with fluctuating expenditure; but when this system is put to the test it will be found that practically every item of State expenditure belongs to more than one of the above-named categories. There is in fact no remedy but that Parliament should recognize its own limitations in this respect. Except for a handful of Social Democrats, there are, at the present day, probably no deputies left who can be called whole-hearted supporters of the unconditional right of Parliament to control finance. This right is effective only when Parliaments discriminate between the legal differences in the nature of the functions which they exercise in voting the various kinds of Estimates. The expression "to grant supplies" is merely misleading, for it represents the Landtag as having complete freedom to vote or to reject the whole of the Estimates.

The same thing may be said of the revenues of the State, for neither in regard to them can there be any question of a general sanction on the part of the Chambers. It is nonsense to say that the Chambers sanction any part of the revenue derived from the Crown lands. The income of the State railways is regulated by

previous laws which made them the property of the State, and hence it is clear that the present Landtag is incompetent to abrogate these laws. Similarly every State has necessarily an elaborate and interdependent fiscal system. It is obvious that Customs cannot be altered every year, for they depend upon treaties extending over a number of years. Some items of Revenue there are whose amount and legal basis is unvarying, and also items which are still unfixed and in regard to which Parliament has a completely free hand. Mechanical classifications are impossible in practice, and the best method for a calm despatch of public business is a mature grasp of its legal aspects.

XVIII

TYRANNY AND CAESARISM

DEMOCRATIC Tyranny, the last of the chief categories into which monarchy falls, really stands half-way between the monarchical and republican forms of government. It springs from the soil of democratic society, and is always found to be the product either of the transition from aristocratic organization to a completer realization of the democratic principle, or else a result of democracy itself pursued with that fanatical logic which is an attribute of political extremes, to the point at which the ideal of popular sovereignty is at once made actual and nullified. The whole authority of the State is then made over to a single individual who is regarded as an embodiment of the entire people. The scope of the monarchical power is enormous, in fact often unlimited, but since it reposes upon no assured foundation of law, the struggle to assert it absorbs a great portion of the political strength inherent in monarchic forms, and deprives them of the calm security and stability which are their best and fairest attributes.

The study of this type of State is particularly instructive, because the power of personality

plays so important a part in it. A ruler who has nothing at his back but good luck and a full purse, his wits and his good sword, relies absolutely and entirely upon himself. There is in him a kind of elective affinity with the great artist, who is the sovereign " I " as well as he. There was a deep psychological reason for the friendship which existed between Leonardo da Vinci and the Tyrants of Italy, for the words of the poet apply very specially to that group of rulers :

> Es soll der Sänger mit dem König gehen,
> Sie beide wohnen auf der Menschheit Höhen.
>
> (The highest peaks scaled by the mind of man
> Shall be the home of poets and of kings.)

A man who has risen above his fellows solely by his own personality and daring, will have other reasons for making his Court a splendid home for Art and Science beyond the hope of thus consoling the people for their vanished freedom. Care for the safety of his own existence forbids him to have anything in common with the masses whom he must hold in subjection to his iron will, and he therefore feels an inward sympathy with the artist, who like himself draws nothing from direct intercourse with the common world of men. The tyrant shows us the individual man in his greatness as well as in the height of his presumption. The psychology of the Roman Emperors in the madness of their Caesarian dreams can only be properly apprehended in the light of these political forms, where one man may rise as high above other men as the Heavens stand above the earth.

We find democratic Tyrannies existing in the smaller City-States of ancient Greece, and we meet them again in Italy during the Renaissance. But we see them also on a greater, grander scale under the Roman Caesars, and under Bonaparte in the modern world. The spirit of antiquity was Republican through and through, and the Romans only expressed the sentiment of all contemporary nations when they freely applied the term *servitium* to the Monarchy and *libertas* to the Republic. Thus it came about that in Rome as well as in Greece the period of the old kingship was brief. Greece was indeed again a kingdom of wide extent in later times under Philip of Macedon and his successors, but this far-reaching monarchy was only half Hellenic, and stands in sharpest contrast to the City-States of older Greece. Alexander's rapid career of conquest brought half Asia under his yoke, and his death was followed by the rise of the wide Empires of the Diadochi; but these again were semi-Oriental in character, and they too were obsessed by the theocratic notions of the East. The new princes adopted Oriental customs, and the Ptolemies had themselves portrayed on their coins in the image of divinities, like the Pharaohs of old. The real political ideal of the Hellenes, on the other hand, was always a Republic. The fall of the ancient original kingdoms was followed everywhere throughout Greece first of all by the rule of the great families in the cities. Then, when the mass of the people grew in prosperity and in ambition, and the times required the strong hand of a monarch, the national instinct

of self-preservation produced the rulers known by the originally harmless title of Tyrant, who provided the necessary point from whence historical development could proceed. They broke the power of the old city families, and they sought to increase the glory of the city by brilliantly successful wars, as well as by the fostering of science and art.

What a galaxy of men, made great by their service to their cities, history has recorded for us among them! Periander of Corinth, Polycrates of Samos, and most gifted of them all, Pisistratus of Athens, who began the turning of the Acropolis into the treasure-house of Greece. All the glamour which poetry can lend hangs about the Courts where Polycrates and the Pisistradi harboured Simonides and Anacreon, and collected the songs of Homer. The great conception and plan of the *Iliad*, with all the deep aesthetic feeling which the brothers Grimm have lately expounded for us again, could only have been put together by the hand of a true poet. It was a creative genius which came to light in those days under the sheltering care of a race of tyrants who were lovers of the things of the mind.

Yet, in spite of all this, the fall of the Pisistrids came quickly, and the people sang paeons of praise to the tyrannicides Harmodius and Aristogeiton. Not all the brilliance and glory of this purely usurped dominion had availed to strike its roots into the nation, and here we lay our finger upon the weakness which has at all times beset this form of government. It is this which

makes Gervinus so ridiculous when he, interpreting history after his own fashion, draws a comparison between modern monarchies and the tyrannies of Greece, and maintains that they are nothing but a transition stage between the aristocracies of the Middle Ages and the purely democratic Republics of the future. Only a man like Gervinus, whose abysmal ignorance blinds him to the reverence due to universal history, could draw so senseless a parallel between a monarchy like our own, which has stood for centuries upon a foundation of law, and the ephemeral power of city rulers, whose span was often only twenty or thirty years.

In more modern times, towards the end of the Middle Ages, Italy became the classic home of city tyrannies. Here the nobility were compelled to congregate in the towns, and the country districts fell in consequence quite out of the development of social conditions. In the democratized urban life, where rich merchants and bankers rubbed shoulders with the aristocracy, children of fortune gradually rose into prominence and gained adherents among the people, either by the arts of the demagogue or by the power of the purse, or else they roved the country as *condottieri*, to pick up what luck or their good swords might bring them; in any case rulers by no right but that of possession, and emphatic champions of the worship of the sovereign "I." They were a swaggering race, self-reliant to a degree, and they fill us with daemoniac feelings—half of admiration, half of repulsion. It was for them that Machiavelli wrote his great *Tyrants Codex*.

One of the oldest of these lines of rulers were the Della Scalas in Verona. They were the very personification of the worship of their sovereign selves. Until their day princes had been content to seek burial in the churches among the community of the faithful, but these Scaligeri built outside the Cathedral doors, and under the free air of Heaven, the tombs on which they were sculptured high upon their chargers. It is very significant, this revival of the antique worship of personality in the midst of a Christian world. The mediaeval man sought salvation in Heaven after he was dead, but the ancient desired that his fame should endure upon earth. Schiller never wrote lines more beautiful than these—

> Wenn der Leib in Staub zerfallen
> Lebt der grosse Name noch,
>
> (When in dust the body crumbles
> Still the glorious name lives on,)

and they are thoroughly Hellenic. Now the tyrants made the antique conception of the value and immortality of personal renown a living thought again in Italy. We must not speak of their rule as a monarchy, for it was rather a sense of power which had no limits but those it set for itself. We have another clear example of it in the Sforzas in Milan, one of the most interesting among these races of tyrants. When the Milanese built a triumphal arch for Francesco Sforza, he turned his horse outside it and said, " These are the superstitious apparatus of kings, but I am the Sforza."

These words of his express at once the greatness

and the moral frailty of this whole form of government. A ruler of this kind is well-nigh omnipotent so long as he enjoys the smiles of Fortune and the favour of the people; let these desert him and he is lost. Not for him is the support of loyalty, dependence, or gratitude, upon which an old-established monarchy can reckon even in its evil day, and the terrible fate which befell countless Italian tyrants is very significant of the nature of these political forms. This naturally does not exclude the possibility of a brief period of truly brilliant intellectual life unfolding under such usurpers. In Italy they promoted for a time a marvellous intensity of culture; to this day almost every important city in the land bears the stamp of its great tyrants in immortal works of architecture. We can trace it in Milan through the three dynasties of the Della Torre, the Visconti, and the Sforza. Here, for a short space, a kind of family tradition was developed in a ruling family, but again and again a contrary Fate brought its dominion to an end, because favourable Fortune was a *sine qua non* for its stability.

Yet nevertheless this purely actual dominion showed greater power of resistance in the City-States of Italy than in the towns of ancient Greece. In Italy democratic tyrannies were not always the stepping-stone to democracies, but developed sometimes into hereditary monarchies. It is very singular to observe how these tyrants deteriorated both morally and politically as soon as they succeeded in establishing a legitimate dominion over a larger territory. The

Medicis were great while they were rulers of the city of Florence. The power of money was the ultimate factor of their government, but with it all they were filled with artistic sense and fine aesthetic taste. But after Pisa had been forced to bow her haughty neck and the whole valley of the Arno lay in the hollow of their hand, this gifted race of usurpers declined into the undistinguished line of Grand Dukes of Tuscany, and became just as petty a race of princes as our own House of Gotha. The Estes ran a similar course, for their importance was greater while they were purely city tyrants than in the later period when they had gradually got themselves recognized as Dukes of Modena, with a certain amount of legitimate claim to the title. Thenceforward the incentive was lacking which drives tyrants to make supreme efforts. The old Italian tyrannies, with no foothold of established law, were cruel very often, and were obliged to understand the art of governing by fear; it was their age which gave their name the significance it has gradually acquired. To this day the cages in which Ludovico Moro kept his enemies are still hanging in the Church Tower at Piacenza. Milder forms were adopted when the governments were legitimatized, but when the throne was secure the reason for straining every nerve vanished, and with it the greatest qualities of the old tyrannies disappeared as well.

Thus we find democratic tyranny recurring twice in history, at different times, but in each instance in the government of little States. It

is remarkable that we should also meet it twice upon the grander scale. First of all in Rome, where, however, it was not a transitional stage towards democracy but the prelude to a period in which the Romans lost their grip upon republican ideals. On the one side we see an aristocracy split by cliques, thoroughly small-minded and outworn, on the other an autocrat of genius, bent on founding a kingdom with the power the sovereign people had put within his grasp. It is well known how Caesar wished to restore the ancient Roman monarchy as the settled Constitution of the State. The dream was shattered by his death, for there was no one of his successors who could dare so great a thing. When the Constitution was crystallized under Augustus and Tiberius it held by the law that the whole of the Emperor's authority should be derived from the Roman people. The Caesar united in his own person the will of the nation and the whole majesty of the State, and upon this his power depended. Legally, the fact never admitted of any argument. To this day the great tablet of marble shines in the Capitol which sets forth that the nation has bestowed the supreme power upon the Emperor Vespasian. Thus the Caesarship was never a matter of legitimate inheritance, its possessor held it by no established right, therefore it was a Tyranny and not a Monarchy. In it everything turned upon whether the Caesar was personally adequate to his task. It is significant of the nature of this form of government that its title should be nothing more nor less than the name of a man.

A man of genius created it, and left it for his successors to live up to.

The installation of a new Emperor was carried out either by decree of the Senate, with the nominal agreement of the Comitia, or else by the legions in the provinces elevating one of their leaders upon their shields, in which case the citizens assembled in the army were held to be representative of the sovereign people. We see by this to what legal quibbles an order of things which had no foundation in law was forced to resort. It is clear that here the characteristics of true monarchy, peace, and security are all totally lacking. In the later centuries of antiquity the Ancients themselves seem sometimes to have felt that the monarchies of the young, inwardly sound Germanic peoples were, even in their immaturity, superior to the older forms of State. But in the Rome of Caesar's day a hereditary monarchy was an impossibility, for the old kingly institutions had been utterly destroyed, and a republican development of centuries had made the term *servitium* synonymous with monarchy, even as *libertas* was with Republic. No kingship was possible but one of actual possession. Trace for a moment the remarkable process by which the attributes of the ancient monarchy were lopped off, and how, many generations later, they revive and flourish. The plenitude of sovereignty enjoyed by the ancient kings was divided amongst the various great offices of the Republic, each of which represented a fragment of a kingly authority which had once been a single whole.

Thus it continued to be throughout the centuries until the rise of the Empire, and then the Emperors once more united in their own persons all the offices which had been separated under the Republic.

To all outward appearance the change was very gradually made, for neither the Senate nor the old popular assemblies were abolished. At first even the idea of a dual government, divided between the Senate and the Princeps, was retained in the law, and the time was not yet ripe for the Emperor to take formal precedence of the Senate. In actual fact he stood above it already, for the Senate was mostly composed of men who were his creatures. The ultimate decision lay with the Emperor, because he united in himself the whole group of offices of the Republic, and above all the office of Tribune of the People. This made him the formal representative of the sovereign people, and gave him, in this capacity, the right of veto upon any decree passed by the Senate. The actual effect of this was to create a new authority, which struck at the very essence of the Republic. The abrogation of the principle of divided control and of a short term of office were both likewise innovations. The Emperor was invested with the purple for the period of his life, and nothing but assassination or the victory of another usurper could depose him from his seat. Lastly, and most important of all, the Empire abolished the old republican principle that in Rome itself the civil and military power might never lie in the hand of one man. Within the City all troops were compelled to lay aside

their arms, and the civil authority alone held sway. In the Provinces, on the other hand, in the last period of the Republic, we find a practical state of siege existing. Here the Proconsuls and Propraetors combined the civil and military supremacy. What had been the actual state of affairs in the Provinces was now approved by law for the whole *orbis terrarum*, and all power in both departments of the State was put into the Emperor's hands.

These very conditions, however, were what made it possible to govern all the parts of the Empire with more justice than they had ever enjoyed under the Republic. When we compare the state of affairs in the Provinces under the old order and under the new we cannot fail to see how needful the change in the forms of government had become for the decaying world of antiquity. For one thing the idea that far distant parts might be represented by deputies was quite unfamiliar to the Ancients, who could only conceive political liberty as direct participation by the citizens in the conduct of the State. Therefore so soon as the antique State widened beyond the confines of the city into broad dominions, or into a World-empire, its ancient freedom was bound to become a hollow form. Rome might indeed bestow the rights of citizenship upon provincials such as the Italic tribes, but in practice it was impossible for all these *cives Romani* to travel to the city to take part in a consular election. In the Provinces the only real value of the privileges of citizenship was in respect of the law of persons. Only one

solution was possible, and instead of the Provinces being dominated by a City the whole Empire was made subject to an individual. In the last days of the Republic the government of Rome had been the rule of a town which had sucked into itself the very life-blood of Italy and the Provinces. We have a terrible example of it in the administration of Sicily under Verres, which was no exceptional case, for the aristocratic Civil Service of ancient Rome received no salaries, and its officials were compelled to squander millions in pandering to the mob. It is impossible to estimate the cost of the Aediles office, but all this expenditure had then to be made up in the fat harvest of a Proconsul or a Propraetor.

The only remedy lay in an absolute monarchy. Thenceforward most of the Provinces lay in the hand of the Emperor, and he appointed legates to be his responsible representatives in them. They received a fixed salary, and held their position for as long as they possessed their master's confidence, in contrast to the Republican governors who, being compelled to leave the Province after a few years, had always made haste to squeeze it dry as fast as possible. Then again it soon came about that the Imperial throne was not always filled by Italians, but by Spaniards, Africans, and other provincials, who did not necessarily take up their residence in Rome, so that the system of government was able to be relatively just to all parts of the Empire. Half against his will Tacitus admits that the Provinces were not hostile to the Empire. "Neque provinciae illum rerum statum abnue-

bant," he says in the *Annals*. We may translate the double negative with confidence into the positive assertion that they could breathe freely under the rule of richly-paid officials who were not out for plunder.

Thus the Roman Empire is seen as a necessary transition from the City-State of antiquity to the Continental State of the Germans. When we observe how a peaceful civilization spread over the *orbis terrarum*, and how wars were gradually relegated to the fringes of the Empire, we cannot deny that in spite of its many isolated horrors, this form of government provided a tranquil close for the life of the ancient world. Until then war had been as normal a condition as peace is to-day. Everything Roman which is still left for us to admire upon the earth is a relic of Imperial Rome. The older Rome was uncultured through and through, and the Republic was finally swept away in a tornado of license. Originally the Romans were semi-barbarians, with no sort of capacity for the finer enjoyments of existence. Under the Emperors all this was changed, although there was still no development of really independent art. Horace and Virgil merely followed in the footsteps of the Greeks and had none of the youthful freshness which we see, for instance, in Ennius. Nevertheless in the reign of Hadrian, Greek art renewed its youth so vigorously that Winckelmann held some of the work of this period to have the genuine Hellenic stamp.

Yet in spite of all this it is impossible to feel any great enthusiasm for the conditions

that prevailed, for we are assailed on all sides by the feeling that the nations of the ancient world had outlived themselves, and that morally and physically their strength was ebbing. Their day was closing in twilight after a brilliant noon, and the light of their evening came to them from a monarchic power, which could never clothe itself completely in the garb of legitimate authority.

There was indeed a wide difference between lawful kingship and the self-deification of the Caesars, which arose from no individual caprice, but had its root in political forms themselves. If a modern monarch were to exalt himself thus it would be reckoned to his personal disgrace, but in Rome the Emperor was in very truth a god. The nations of antiquity put the State above every other thing, and therefore its veritable head was bound to receive the honour due to a divinity. Temples were built to the Emperor, even while he yet lived. What mortal man, thus treated, could avoid having his head turned? The mad dreams of the Caesars were the inevitable psychological result of this form of State, for only a man of real genius could remain undazzled by the giddy height to which he had been raised by a freak of Fortune and by no inherent right.

Under Diocletian the Empire underwent a very essential alteration, both inwardly and outwardly. Rome was transported across the Bosphorus into the theocratic dream-world of the East, and the eastern half of the Mediterranean began to exercise a potent influence

over its western shores. The wars with Persia followed, and, for a further misfortune, brought points of contact with the Persian Kingdom. Persian ceremonial crept into Europe. The Emperor became *numen sacra numen*, like any theocratic ruler of the Orient. Everything about him became sacred, down to the purple dye of his robe. Under these forms the Byzantine Empire shaped itself into a logical "Panbasileia." The theocratic element e tered into it more and more, and when it adopted Christianity under Constantine, Caesaro-Papalism was an absolutely natural result.

Roman Caesarism has found its modern counterpart in the Bonapartism of France. In its later setting this form of State is unmoral in all its aspects, because the French formed part of a community of civilized nations. Neither can they be called outworn in the same degree that the Romans were when the Caesars reigned, for such a decay is contrary to the nature of Christian civilization. The gracious mutual give and take which rejuvenates and reinvigorates Christian nations was lacking in the old Pagan world. It is because it was an unnatural portent in a civilized and independent world that Bonapartism is so much more hideous than the Caesarism of old. It, too, has taken its title from a mighty historical personality. Here, too, the ruler must stand out from his fellow-men either by his military glory and his power of government, or by his wealth, and as a patron of the arts; in him the nation must recognize the reflection of its own innermost self. Napoleon I. understood this well, for he knew the needs and

the wishes of the French people. His foreign policy was just one gigantic gamble, and his idea of a world empire was contrary to reason and could never actually have endured. He was in this a destroyer, and nothing more, and by rousing the nations beyond the limits of their endurance he helped them finally, against his own intention, to unity and freedom upon national lines.

Within his own country, however, his achievements have become part of the nation's life, and the institutions which he created have survived the lapse of time. The greatness of Napoleon lay in his insight into the French character; he knew that what they wanted was to be governed like a flock of sheep, as slaves in reality, but with absolute freedom of speech. He formed his judgment of them coldly and cynically from his own Italian standpoint, and no amount of phrases ever blinded him to their failings. With a consistency which compels our admiration he built up a State of soldiers and police; in other words he founded his own despotic power upon the army, and a strictly centralized administration. He was unable to dispense with the simulacrum of a Parliament, but he was able by a masterstroke to prevent it from gaining an asce dancy. He constructed three representative bodies: the Senate, consisting of State dignitaries, were puppets of his will; then a Tribunate, whose function was only to discuss projected laws; and finally a legislative body, which had nothing to do but ratify the measures whose details had been settled elsewhere. Here we see the Janus-like lineaments of a despotism born of the

Revolution, but it was a democratic despotism. Very characteristic was the malicious and mocking contempt with which Napoleon treated the German princes, who indeed deserved nothing better. The crowned Plebeian wished to prove that he was worth more than all their titles could make them, and that he, a child of the Revolution, stood above any prince of them all.

Yet here again the only possibility for the stability of such a system lay in the nation seeing itself embodied in the power and good fortune of this single man, for in a State so constituted the moral forces of loyalty and law could never make themselves felt. The French had long since ceased to hesitate before a broken oath. Napoleon III., who also tried to rule by virtue of the people's will, soon discovered on what a broken reed he was relying. There is no doubt that at first he, too, was beloved by the masses, who were wearied of the self-seeking strife of parties, and yearned for tranquillity. It was fear, that basest instinct of the human soul, which raised both the Napoleons to the throne. Society was divided into two opposing camps; the *nivelleurs* who stood for a universal destruction, and the *trembleurs* of the educated classes, who knew how to turn to their own profit the struggle at the Barricades which they had left it to other men to fight.

A nation so sunk in cowardice is ripe for a despot. It is the fashion to call the French lovers of novelty, but in reality there is very little political ground for this reproach. The last hundred years have brought less change

to France than they have to Germany, for the revolutions only affected the surface of the State. The unprejudiced observer is bound to admit that it was under the rule of the first and third Napoleons that the country presented the most harmonious impression of a relatively sound political development. There is no use in attacking Bonapartism with moral aphorisms, for it, and not the bureaucratic Republic of to-day, expressed for France the laws of her political logic. To this day the governmental forms of the country are based upon the institutions of the First Consul. The firmly centralized hierarchy of a thoroughly despotic Civil Service, which dispenses the citizens from the labours of self-government, and leaves them only the privilege of criticizing, paying, and occasionally taking refuge in a revolution, is the substructure of the State, and demands a despot at its head. The Republic only lives on because no new Bonaparte has arisen to replace the man who beat the Germans.

In themselves, the forms of democratic tyranny have of course formed the stepping-stone to a Republic. The chosen leader of the nation may be invested with an undefined, unlimited power such as no legitimate monarch of our own day can ever hope to possess, but, either formally or actually, the will of the people must still be its only legal basis, and it may be withdrawn from him at any moment. Even the Napoleons were dependent upon Fortune, and when Fortune forsook them they fell, even as the Tyrants of Ancient Greece had fallen long ago.

XIX

THE ARISTOCRATIC REPUBLIC

ALL Republics have this characteristic in common, that in them the authority of the State is delegated, and does not rule by its own right, as it does in a monarchy, so that consequently the rulers are subjects at the same time. The central authority cannot possess that complete independence which is, at any rate potentially, the attribute of monarchy, for it is appointed directly, and ruled indirectly, by the will either of the nation as a whole or of a ruling class within the nation.

As long as there was belief in a natural law, and absolute acceptation of the principle of the sovereignty of the people, it was logical to derive the will of the State from the will of the Many. If we start from the delusion that a natural condition, in which States were non-existent, was the precursor of all political forms, and that upon it followed the appointment of a supreme authority by the sovereign people, we are already thinking as Republicans, and the institution of monarchy becomes quite inexplicable. It was only after the school of historical law had vanquished this doctrine of Natural Right that it

became possible to criticize the republican State from the same unprejudiced standpoint as other political forms. It then at once becomes clear that the classical State does not by any means embody the ideals which the philosophers constantly depicted in their conception of a contented and innocent antique world, firstly, because it was inherently unfree, and, secondly, because of its limitations, for it was a City State. Speaking generally, these limitations reappear in the Republics of modern history, for, as a rule, this form of government has only stood its test in the little States. Republican rule is impossible in a great State unless it be made up of a federation of small ones, for it is only adapted to narrow horizons, where considerations of foreign policy play no part.

Republican forms themselves may be divided into two kinds, sharply distinguished from each other by the difference between aristocracy and democracy. So wide is the gulf that we may say that monarchy stands between these two forms of Republic. It is no matter for astonishment that mathematical minds so seldom understand the world of history, which is so full of conflicting lines that it is useless to try to divide it into any geometric pattern. The monarchy and the aristocratic Republic have tradition and inheritance in common, they both cherish the belief that some kind of historical dispensation has called either a family or a whole nobility to rulership, and herein lies the natural affinity between these two forms of government. Monarchy is akin to democracy on the other side

because the high position of the monarch gives him at all events the power to join hands with the simple man as his protector against the strong and the arrogant. To this we must add a point of psychology. When rule is divided among a number of persons, old experience seems to show that it is exercised for the benefit of the majority, whereas a single ruler, responsible only to himself, appears rather to consider the welfare of the whole community. For this reason monarchies can rarely incur as much dislike as purely aristocratic States may do. Human opinion is a real force in these matters, and human sentiment must be reckoned with by those who strive to understand the effect produced by different political forms in actual operation. It explains why a more or less latent monarchical force has always been the support of the nation, and the defence of the weak and the oppressed in aristocratic States.

Aristocratic government is always difficult to manage, because it is founded upon a conception of class distinctions which is undoubtedly at variance with the natural instincts of equality in the human race. I have already remarked how equality is postulated with peculiar emphasis in respect of those highest possessions which are the common property and the distinguishing mark of the race of men; nowhere is inequality more intolerable than in legislation for the family. All aristocratic domination is founded upon the idea that one class is called into a higher position than the others. The very name signifies that this form of State reposes upon the belief that

the purest blood flows in the veins of the rulers, which in itself throws a certain odium upon those who are ruled. There is something terribly inhuman and arrogant in a purely aristocratic temper of mind, which has a far more baneful effect than the haughtiness of a monarch. The aristocracies of the Middle Ages were characterized by a cynical contempt for their fellow-men; it was they who turned the word for peasant (*villanus*) into a term of abuse. In the Council House of Augsburg there are three allegorical paintings. Aristocracy is there depicted in the guise of a solemn Senate, Monarchy as a brooding despot receiving the humble homage of a gorgeous train of followers, but Democracy is a drunken Cleon encircled by a yelling mob. These illustrate the point of view of the nobility, and the principle, "Better be destroyed than enslaved," for in that world the serf could expect no consideration. It was from the middle-class aristocracy of Holland that we got our contemptuous nickname of "Janhagel" for the lower classes. It brings out clearly the hard-hearted pride of wealth and learning which the Dutch displayed towards "Jan Hagel" or the simple man; it is the temper of lords who have no overlord.

This violation of the natural instincts of humanity is then the reason of the difficulties which beset this form of State. The demand for distinctions and divisions in political life can only be reasonably raised in a nation where the differences of social conditions are patent to every eye. In ancient Switzerland, with its

Cantons old and new, its protectorates and its territories, which were absolutely subject either to the whole Confederation or to individual Cantons, the distinction was reflected in the legal position of the three different kinds of Province. We find similar conditions in the Netherlands, where the Seven Provinces composed the backbone of the nation, and where there was no insistent call for complete equality.

A flourishing aristocratic State presupposes the existence of an astute ruling class, holding firmly by the settled tradition of their policy. The tendency of democracy is always levelling, and its demand is for a fixed and rational code of laws, while an aristocracy always prefers to rule along historical lines. Hence the aristocratic temper of historians of the first rank. The man who is steeped in history is bound to have a certain predilection for what has gone before; Stein spoke as a pure aristocrat when he said that making a Constitution meant developing the present out of the past. Wise aristocratic statesmanship is founded upon the further development of the past in the present; it has to watch lest the will of the past, as expressed for instance in the law of inheritance, should cramp and control free action in the directions which the present desires to pursue. Most aristocratic governments are inclined to permit this to happen, and to introduce no changes, although the economic life of the nation is perpetually driving new social forces into action. The idea of rule by virtue of inheritance runs through everything, as the peculiar reverence shown to

family tradition shows. This has displayed itself at all periods under the most diverse forms. The ancestral portraits borne in the funeral procession of the Roman patrician denote as much as do the tombs of the Venetian Doges in San Giovanni e Paolo how much stress was laid upon the family and its inherited tradition. An aristocracy is often unable to do justice to the natural tendency of the human spirit towards perfectability, therefore this form of government is seldom tolerant, and yet it is in a position to compel respect. Its policy is consistent and well considered, for the very reason that it takes no count of the natural inclinations of the common people, and its history will always have a peculiar attraction for the professed student of politics.

In an aristocratic State everything naturally depends upon the kind of political training the ruling class have received. A family education, in which father transmits to son the judgments and prejudices of his class, together with the habit of command, is necessary for the maintenance of political tradition, with its rights and customs. Much sagacity therefore has been properly expended upon the attainment of this end. The practical training of the nobility upon the ladder of official life has an unspeakable importance, which the Roman aristocracy understood better than any other nation when they put their young patricians through all the grades of office from that of quaestor onwards. We see the same process in the Teutonic Orders, in which the individual knight could rise from the lowest rank to that of Commander and " Gebietiger."

The thing to be aimed at is the construction of a type in which individuality shall be kept in the background. Aristocracies only wish to bring into prominence the habit of mind and inherited wisdom of their class, and they look coldly upon the development of great and original personalities. Monarchy, on the other hand, works upon the opposite theory that history is made by individual men—great kings with great ministers to seize great opportunities. Hence it follows that aristocratic States will not always permit great military glory to be won; they begrudge the crown of victory to their generals, lest it be followed by the crown of royalty. Venice usually appointed foreigners to lead her armies, because these would not easily find enough following in the State to bring about a revolution.

Think for a moment of ancient Rome. Her Consuls were all as like one another as two peas; we read of them celebrating their triumphs over the enemies of the city, but of their personalities we can form no picture. Her aristocratic historians make a principle of mentioning the names of individuals as seldom as possible. Look, too, at the history of the Teutonic Order, which was, as I have explained before, a theocratic aristocracy. We do not know to this day whether Meinhard von Querfurt, the great dyke-builder, was a mythical or a historical personage. An aristocracy such as this could not tolerate the genius of a Heinrich von Plauen. Praise and blame both fell to the lot of the Order as a whole, and as a whole it carried on its great work. No

aristocracy can avoid a strain of hardness and narrowness, and we may describe it as following national aims in a peculiarly harsh and logical manner. Those who would understand to what greatness world-wide commerce can rise, as well as to what baseness it can stoop, must study the merchant aristocracy of Carthage, while Sparta shows what a warrior aristocracy is like when it has made war the be-all and the end-all of existence.

In such a world of fixed tradition the violation of long-established law was held to be a contradiction of the political forms themselves, and therefore the forms in which justice is administered have in all aristocracies generally been both strict and good. The *justitia fundamentum regnorum* is eminently aristocratic, even though the good Emperor Franz also took it for his motto. Justice was always assured even in the aristocracies which shock us by their harshness. Its political trials apart, Venice possessed a good civil and criminal jurisprudence, and it is well known that in ancient Rome the body of Judges was the last legacy of the aristocratic Republic to the budding monarchy. We may safely say that the jurists were the only category of politicians who survived under the Caesars. The maintenance of law in all its severity is a strong point in aristocratic Republics, but we have to admit at the same time that they are, and must be, less inclined to mercy either than a monarch or a sovereign people. There is something thoroughly aristocratic in the strength of character of those inhuman fathers which old Roman

history shows us pronouncing sentence upon their own sons. If an aristocracy is to survive it can tolerate no disrespect to the laws upon which it is founded, for since the rights of the rulers themselves are based upon inherited tradition, all other rights must be held equally sacred. Everything has its sure and logical connection, and the spirit of the State, one-sided though it may be, is thereby invested with a certain grandeur.

In this strict administration of justice we may seek a compensation for the undeniable injustice which suppresses the development of talent, and forbids any man to climb out of the station in which his birth has placed him. A still higher recompense is to be found in the outward brilliance which is another attribute of aristocracy. The splendour of the rulers is blazoned to the world, and handed down to posterity by buildings and monuments of every kind. There is something so imperial about the Palace of the Doges and its surrounding buildings that it served as a model for the architecture of the cities subject to Venice upon *terra firma* and along the Dalmatian coast, where we see with astonishment St. Mark's Square reproduced again and again by the towns involuntarily compelled to imitate their overlords, so soon as they were drawn within the sphere of their dominion. The majesty of ancient Venice stood out in small things as well as great, for the whole town was laid out with the pomp of a Presence-Chamber.

In these directions the old aristocracies were very far ahead of our own democratic century, and this was very forcibly brought home to me

in Stockholm lately. There, upon the Ritter Island, packed with memories of the old aristocratic age of Sweden, stands the Riddarholm Church; close by it the Ritter Haus, in whose gigantic hall hang all the coats of arms of the old Swedish and Pomeranian families. Two hundred paces farther on we come upon a shabby barrack-like building, which serves as place of assembly for Sweden's two Chambers at the present day. In Amsterdam, too, we can visit the splendid Council House, built upon 40,000 piles, with its seven doors for the governors of the Seven Provinces. The Council Houses of our own Free Towns, Cologne, Nuremberg, Augsburg, all are likewise magnificent. In Rothenburg three stand side by side. They are the evidences of the pride of the city aristocracy, and also the sop thrown to the people. The real instinct for splendour of outward forms will always be more widespread in an aristocratic than in a democratic century, except when now and again a Demos with keen aesthetic perception inhabits a ruling city, as in the case of Athens and Florence.

Everything which touches the amenities of life will as a rule be more gracefully and skilfully provided for in an aristocracy, and this is the reason why it produces such excellent diplomats. Venice had the best the world has ever seen, and their despatches from foreign Courts are the admiration of all historians, and the classical model for their kind. These men had the dignity which comes of early training in the art of rule. From youth up they had practised the aristo-

cratic art of being bored without betraying it, and yet of never becoming *blasé*; of controlling their own countenances while narrowly scrutinizing the expression of others. To us all this already seems unfamiliar, for our upstart democratic manners have begun to lose touch with these courtesies of a bygone age.

A Government whose whole nature is so closely entwined with the ideas and forms of the past must naturally look upon all the living forces of the present with a strong mistrust, and therefore, since all history is continually moving forward, this form of State stands always in a certain antagonism to it. Two classes of persons are the inevitable and dangerous enemies of such a government, namely, men of talent whose birth is plebeian, and those whose origin is mixed. This was already known to Aristotle, for in no aristocracy can the separation of classes be so strictly kept but that there will be children born who feel it an injustice to be put below their own blood kindred. Nevertheless, outstanding ability is generally repugnant to every aristocracy, even when it manifests itself among its own officials. Therefore we find everywhere some system of control, designed, like the Censorship in Rome, to keep strict watch over the official class, lest they should exceed their powers. The most celebrated of all these is the skilfully contrived checking system of Venice, where one authority was always in close touch with the other, where the red and black Inquisitors kept mutual watch upon each other, and the secret denunciations were thrust by night into the

Lion's Mouth. In the same way Sparta had her Ephors, and in this case the spirit of suspicion ruled so strongly that overseers were appointed by the State. This political mistrust often brings an uncanny atmosphere into the life of aristocratic States.

A system of this kind may work for a long time, but no amount of political wisdom can defend it in the long run against the living forces of history. The beginnings of its decay often pass unperceived, but Aristotle had already noted the process. "Aristocracies," he says, "generally crumble gradually and no man marks it" (*λανθάνουσι μεταβάλλουσαι τῷ λύεσθαι κατὰ μικρόν*). "When the best cease to be the best," when the inward claim that is founded on education, on the greater instinct for justice, etc., gradually disappears, then the ruin begins softly and slowly, unseen, until suddenly the whole structure falls asunder. Think of the aristocracies which collapsed at the beginning of the nineteenth century. Think of the past which lay behind Genoa and Venice, and Berne as well. Their history had been proud indeed, and yet how suddenly they broke under one tread from Napoleon's heel. They fell, never to rise again, for they were ripe for destruction, although men had still thought them strong; not even the Vienna Congress was capable of setting Venice and Genoa on their feet once more. Today, we may safely say that although almost every highly developed nation has aristocratic elements, yet no form of State, with the exception of a theocracy, is become more impossible in

modern Europe than a purely aristocratic Republic. The conditions for it are no longer to hand, for it requires on the part of the people a submissive acquiescence in the superiority of their ruling class, and they must, moreover, find comfort in this belief. So it was in Venice of old; the common man could earn money in plenty, he felt a certain pride in his Government, and an illumination on St. Mark's Square consoled him for many trials. No artistic display in the world could cast such a spell to-day, and we may almost declare with certainty that Europe will never see an aristocratic Republic again. As a form of State it belongs entirely to history, although its influences are traceable still in many of the traditions of the States of our own time.

If an aristocracy is to survive it must keep its attention fixed first upon the rejuvenation of its ruling class, for this alone hinders secret antagonisms from rising suddenly and dangerously to the surface. To this extent only was Montesquieu justified in saying that moderation was the leading principle of this kind of State. This is only partly true; it is one of the brilliant sallies upon forms of government of which his book is so full. An aristocracy is always in danger of exaggerating the system of exclusion, and thus giving opportunity to the detested παρέκβασις which the Greeks called oligarchy. It can only avoid falling into torpor by knowing how to revitalize itself with democratic forms, without letting slip the reins of government. Here the wisdom of the Romans showed itself. Cicero made his mistake regarding the mixed

Constitution of Rome because the Roman aristocracy had been shrewd enough to veil their dominion under democratic forms. Step by step did they apparently give way, yet never did they quit the field, and again and again the old aristocracy found a way to reinforce itself with plebeian energies. By such wise concessions it maintained itself for long. It has been the same with the English nobility, where the influx of fresh blood is not difficult to ensure, although, in spite of it, this aristocracy finally so slighted the other classes that a wide gap arose between them and the lower ranks of the nation.

Thus all experience shows the difficulties which beset this form of State, on account of its perpetual conflict with the natural impulses of human nature. It is very important to distinguish correctly the different forms in which modern and ancient aristocracies are constituted, for this is the very point upon which the antagonism of Paganism and Christianity comes most uncompromisingly to the fore. The foundation of slavery upon which they rested made the aristocracies of antiquity aristocracy intensified. Slavery must have made their frightful harshness vastly harsher yet, and our modern world is simply unable to picture an aristocratic rule such as Sparta knew. Slavery is also the primary cause why antique democracies, on the other hand, strike us as so beautiful; it is because, in our modern sense, they were not democracies at all. Slavery enabled them to be comparatively restrained, noble and fine, while it shows up an aristocracy in its ugliest aspect.

Another point to consider in forming a judgment upon aristocracies is the character and ideals of the ruling nobility. We are at once met with the contrast between a military and a monied aristocracy, and experience and psychology are at one in declaring the former superior to the latter in every way. Moral ideas lie at the root of the dominion exercised by right of birth; conceptions of knightly honour, military spirit, and political duty are never utterly lacking, although they are often dimmed and faint. A monied aristocracy is founded upon principles which are the very reverse of honour. The spirit of avarice is so strong within it that we may call government by merchants the worst rule of any. Republics such as Carthage, or in modern times the British East India Company, may be reckoned among the most abominable, although certainly also the most worldly-wise, of men's achievements in the sphere of politics. The poor Hindus were right enough when they called the East India Company "a wicked old woman," for it is impossible to describe how this trading Company drained the life out of the nation. When future times pronounce their verdict on the existing French Republic, the principles of this form of government will perhaps be better understood. A plutocracy is still a possible form of aristocratic State, even at the present day, decked out, as it is in France and many parts of Switzerland, in the trappings of democracy.

It is well known that Greek theorists—misunderstanding the nature of monarchy, and dismissing it as an unpractical dream—have

pronounced the domination of the best to be relatively the most perfect form of Constitution. These theorists were one and all nobles of the city, filled with passionate hatred for the Demos. Plato is the city aristocrat personified, instinct to his finger-tips with arrogance of caste; and Aristotle inherited some of this from him. All the Greeks looked upon Sparta as the fountain-head of political wisdom, even as we looked upon England a few decades ago; in those days we sought and found a depth of meaning in British institutions which astonished Englishmen themselves. We see with amazement the Athenian philosophers, filled as they were with a culture and a nobility of speech which none but the Ionians could compass, extolling the Spartan State which showed in every particular an absolute contrast to their own glorious civilization. Plato finds his modern counterpart in Frederick Gentz, who lent the power of the mind which had formed itself upon Goethe and Schiller and the Kantian philosophy to serve the cramped and narrow statesmanship of Austria. Vienna could never have produced such a man as he; he was no native of that world where Jesuitical teaching alternated with pastry gobbling!

Plato and Aristotle followed a course similar to his, if less ignoble. They committed a crying injustice against their Fatherland, they vilified the Prussia of Greece in order to exalt its Austria, for to Hellas Sparta was the power of death and perpetual stagnation which paralysed the whole. From its very beginnings the Spartan character was dour and narrow in the highest degree. The

State had been carved out by the sword, for when its Dorian conquerors had divided the land between them at one fell swoop nine thousand Spartiates had each received an inalienable patrimony, and the aristocracy was thereby established on a very firm footing. As long as this was kept to, the dominion of the nobility was secure and internally sound. Below them and in dependent relation to them stood thirty thousand Lacedemonians as Perioeci, who exercised no political function whatever, and below them again came more than two hundred thousand Helots, State slaves of the Spartiates. So long as these divisions were kept up the aristocracy was healthy at the core. The real direction of the State was in the hands of the γερουσία, a Senate composed of twenty-eight members, whose minimum age was sixty. This body supervised all the various official authorities on behalf of the State, it exercised penal jurisdiction, and directed the lives of each individual citizen. Side by side with it there was a National Assembly of the ruling nobility, but it only met once a month, for the purpose of ratifying or rejecting without discussion the decrees of the γερουσία.

This system presupposes the thorough and comprehensive training of the ruling class in the art of government, and this attribute of the Spartan State was what chiefly called forth Plato's admiration. His pre-eminently pedagogic mind always believed that virtue could be taught. He thought it came from knowledge and understanding, and he invested education with absolutely magical power in consequence. In

Sparta the boys and youths were trained on a very methodic system. They were only left to feminine care for the first seven years of their lives; after that they were taken out of their mothers' hands and publicly educated as children of the State (παῖδες πολιτικοί) until their thirtieth year. This system had marvellous results in its development of physical energy; so manly, warlike, and hard was it that even those notes of musical instruments which might tend to soften the spirit were expressly forbidden; the ears of Spartan youths might only hear certain specified harsh sounds. Education in the proper intellectual sense was likewise forbidden on principle, for fear it should lead to effeminacy of character.

In Sparta even marriage was treated as a purely political matter, and all family life was absolutely suppressed for the sake of the State. The sole aim of marriage was to rear healthy children for the warrior class; youths and maidens whose physical characteristics seemed to promise a vigorous progeny were paired with each other for this purpose only. In fact marriage was hardly worthy of its name in Sparta, because the husband scarcely ever lived at home. He was obliged to present himself thrice daily to sup black broth at the Syssitia or common table. The female sex coarsened and deteriorated under this purely military development of the Spartan State; women were looked down upon in a really terrible way, and were given no place at all in a world made for men alone. Their only function was to suckle stout warriors, and for the rest

they were nothing but weaker men, with all the tenderer sides of their natures forcibly suppressed. These masculine creatures, who had lost all their womanhood, were the final cause of the overthrow of the State.

Another dangerous germ of destruction lay in the ancient double kingship, which had great power in the earliest times, but was reduced to complete impotence under the later Constitution. Both kings had certain privileges, and they took command of the armies in the field, in the name of the Gerusia, of which they were both members. This fallen royalty carried with it the risk of a strong king arising; who, in order to make his proud title a reality once more, should ally himself with the Perioeci and the suffering masses of Helots, for in this case a king must become a demagogue if fortune were to favour him. The attempt was once made and failed; its primary result was the appointment of Ephors, a body of State overseers, five in number, elected on the average for the space of one year, whose function was to exercise control over all officials of the State, including the kings. It followed, by one of the natural laws of politics, that the authority of the State was transferred from the Gerusia to this little group of Ephors, and the aristocracy was transformed into an oligarchy. The office of Ephor became thenceforward the highest object of an ambitious Spartan's desire, and he sought to attain it by all lawful and unlawful means. The disastrous spirit of suspicion which led to the institution of these Ephors was bound up with the inherent impossi-

bility of keeping the State always upon a war footing. Aristotle hit the right nail on the head when he said that Sparta's Constitution would be perfect if the State were a camp. This, however, it was not, and its desire to become so artificially, involved its cutting itself off intentionally from contact with States whose development was higher. Sparta tried, for this reason, to prevent economic intercourse with neighbouring lands by introducing an iron coinage and by other means as well. Nevertheless, since war brings nations together as much as it sunders them, and since it has always been one of the strongest influences for change in history, the Spartans must have learnt something of the civilization of more cultured peoples during the perpetual wars they waged. The spectacle of the wealth and beauty of the world could only affect these barbarians in one way. They ignored the beauty, but they saw the power of money. A terrible *auri sacra fames* took possession of their untutored minds, until they became like the lion who has once tasted blood. Robbery and plunder spread everywhere, until even the old tribal territories at home were bought and sold, and with this the sexless women of Sparta began to play a dreadful part. The toll of war among the men had placed two-fifths of the tribal territories in the hands of these shameless creatures, who ruthlessly misused, in their ever-growing greed, the power which capital placed in their hands.

The pressure upon the lower classes became unendurable, and a despairing cry for a monarchy arose, but the redivision of property under King

Cleomenes came too late, and in the ensuing struggle of all against all the State fell into a ruin, which could have had no better outcome than its final subjugation beneath the administration of a Roman Proconsul.

Thus did Sparta meet an obscure and miserable end. She had had five hundred years of life, and her discipline and endurance had even made her vanquisher of Athens. Hers too had been the aristocratic art of diplomacy, and we cannot but admire the political shrewdness and skill of her ill-educated and laconic race, even though in the other States of Greece she did find natural adherents who were unfortunately lacking to Athens. To belong to the Spartan party was as common in the reactionary circles of Greece as Austrian inclinations once were in Germany. All the city nobility which the democracies had driven out naturally joined this party. It is difficult nowadays to form any true conception of the savagery of these nobles. We may make some guess at it from the words of the secret oath which they swore against their Fatherland: "I will be an enemy to the people, and work them as much evil by thought and deed as I can think or do."

To these elements Sparta looked for support, much as Austria has looked to the landed gentry of the Empire and to the Church of Rome. These old Greek times are in many ways so strikingly like the political conditions of Germany that we sometimes almost feel that we are studying the history of our own country during the German Confederation. Greece faced her decisive struggle in the Peloponnesian War, which was for her

what the war of 1866 was for us, and Sparta then used precisely the same methods against Athens as Austria did against us. King Brasidas caused himself to be preceded by a proclamation in which he offered release from the oppressive preponderance of Athens to all Hellenes who should adhere to him. Benedek made the same promises to Germany regarding the oppressive preponderance of Prussia. The high-hearted Athenian nation who set out to unify Greece and to pursue a Great Greek policy found no natural partizans among the petty States, and in this lay the real cause of the failure of Athenian policy.

The mere student may find something to admire in the spectacle of this crude and brutal State in the midst of a race whose destiny was to lead the van of civilization, but Grote and Niebuhr have proved beyond dispute that with all its immorality the Athenian Democracy was more moral and more human than Sparta. The breadth and greatness of Niebuhr has seldom struck me so forcibly as in his lectures on Greek History. He, almost a reactionary in modern politics, hates Sparta, and expresses an enthusiasm for Athens, because he feels that the spirit of Hellenic life burned more brightly there. We who belong to a manly race, where military service is universal and skill in arms is looked upon as a normal passion for every healthy man, can never take for our model a State where military efficiency is the only ideal. Our age is one of fashions in learning, which change like the cut of clothes. One generation

of scholars raves for Athens, the next reveres Sparta. Yet, when we look at history dispassionately, we do not find the embodiment of the Hellenic ideal in the brutal warriors of Sparta, but in the undying loveliness of Athenian life.

In Sparta we have seen a military State in all its terrible harshness, and we now turn to study the striking contrast which the distorted commercial State of Carthage affords, with its equally one-sided but decidedly more repulsive extremes. World-wide commerce unfolded itself grandly in the hand of this Semitic people in the Bay of Tunis. The Western Mediterranean they regarded as their own monopoly, and they permitted to no other nation the right of passage through the Pillars of Hercules. The navigation of these straits was regarded as a trade secret of Carthage. They sailed round Africa and reached the East Indies, they journeyed northwards through the Atlantic until they came to the Shetlands, and they gathered precious amber on the shores of East Prussia. Everywhere as they went they exploited the subject peoples to fill the purse of Carthage. The magnificent mining operations which they undertook in Spain give us some idea of how well they understood how to turn Nature to their service, but the lowness of the galleries, in which men must lie upon their stomachs as they worked, also shows us how shockingly this nation of traders misused their human labour. The State, as Aristotle tells us, was steeped in greed; its system, he adds, would be perfect if it were a speculative trading business and not a State at all.

To all their refinement of comfort and luxury this people joined a hideous combination of immorality, blood-thirstiness, and sensuality in their horrible worship of Moloch and Astarte. This Semitic merchant State has shown us how little wealth by itself can do to ensure civilization. It may be that modern nations are once again to make this experience for themselves, for we are rushing with lightning speed towards a similar development. The motto of our very latest Art seems to be, "We can afford to pay," for what is there to admire in the aesthetic magnificence of the present day except the money it has cost? Our newest architecture, in its Nuremberg toy-box style, bears witness to the poverty of our invention, and yet we hear its perpetrators boasting of being greater artists than Rauch or Schinkel or Schlüter! It may easily befall us to see the beauty and nobility of human life swallowed up by the greediness of commerce. Carthage has shown us the terrible degeneration that may overtake a nation which is driven by the avarice of Semitic blood into permitting the dominion of capital pure and simple. We see it at the acme of wealth and prosperity, pursuing its barbarous worship, and producing a literature which is nothing short of twaddle. We only know of one single serious book to lay to the credit of the richest nation of the world, namely, Mago's *Dissertation on Agriculture*, translated into Latin by Cato Uticensis.

The political Constitution of Carthage was admirably suited, after its own fashion, to a State whose aims were purely commercial. We

find here a Senate, composed, like that of Sparta, of twenty-eight Gerusiasts, with two Suffetes at their head, although in Carthage these were elected annually. Although their power was equally small, they do not present such a striking contrast to the governing aristocracy as the Spartan kings, because another monarchic opposition party very soon arose. The whole Carthaginian Constitution was oligarchical from the first, and the existence of cliques was an inevitable part of it. An Ephorate was finally instituted in it also, though it was a far larger body than in Sparta, and it became the real ruler of this merchant nobility. The great business houses joined themselves together in groups of five, and the Board of the Hundred and Four was composed from these groups by a sort of distillation process. The masses remained content under this Government, as no direct taxes were required of them, for the proceeds of the high tariffs and of the Spanish mines sufficed by themselves for all public expenditure.

Such a State as this would have crumbled of itself, if it had not contained a healthy strain of monarchic-democratic opposition. It is fortunately impossible even for Semitic humanity to give itself up entirely to the pursuit of gain. The Carthaginian army became a very real power, the more attractive in our eyes because it appears as a reaction of the spirit of heroism against the purely material spirit of the State. A commercial policy on the Carthaginian scale could not have been carried on without a great army. Yet here, as everywhere else, the city nobility were slack

and lazy, so, since the merchant princes would not serve, the army was recruited from the lower classes and from the neighbouring tribes of nomads; to these did the traders leave the trade of arms. In other ways as well the Carthaginian army bore the stamp of a commercial State, for, like the troops of the Netherlands in later times, its strength was in its artillery and its engines of war. Commercial States, with their intelligence and their great command of capital, always produce the best technical weapons, and at all times engineers have usually been of the burgher class, while the horsemen were drawn from the nobility. The Carthaginians used elephants as engines of wholesale destruction. Perpetual fighting went on, usually against the Bedouins on the edge of the Sahara or in the interior of Spain, where Carthage finally clashed steel against Rome. These unceasing wars produced a race of great military commanders, who had nothing in common with the Semitic State which gave them birth. All the heroic elements of the nation were embodied in Hamilcar, Hasdrubal, and Hannibal; they were the chivalrous strength of the people, and drew the masses to them by a magnetic attraction. It is precisely in the masses that natural sympathy for heroism is always found, and therefore the House of Hamilcar was much beloved in Carthage. Relying upon their popularity, and yet more upon the army, these generals soon built up a latent monarchy, and became a stumbling-block in the way of the aristocratic domination, just as the kings had been in Sparta. So little logic is there

in political institutions that this opposition was the very means of keeping the Carthaginian State for a time upon its legs. In itself there is something inconsistent about the existence of a latent monarchical power, with no legal justification, within a logically constructed aristocratic State. The power of the Barcidis was purely founded upon facts, and had no sort of basis of law, for nowhere was it written that the leader of the army should be a member of this family, but it was usurped by great and undying military prowess. This was fortunate for Carthage; for had this great race of soldiers not existed the merchant aristocracy would have been seen in all their pitiable sloth, and Carthage could certainly never have waged her three great wars against Rome. When misfortune finally overtook her it became evident that the State was no longer fit to be the home of heroes, and the fate of Carthage was sealed when Hannibal turned his back upon his spiritless Mother-City.

How different is the noble picture which the Roman aristocracy offers us. Rome was the greatest, the wisest, and the most powerful of ancient republics, and in its classic period it was a completely logically constituted aristocracy. Polybius and his follower Cicero prove the purely superficial quality of their examination when they try to prove that this was a mixed Constitution from the fact that the supreme power was in the hands of two Consuls, and that the people were admitted to the Comitia to ratify the decisions. The triumph of this aristocracy lay precisely in the marvellous skill with which

they absorbed democratic ideas into their Constitution and thereby turned them to their own ends. Niebuhr got this point exactly when he said that we may recognize the political insight of the Roman Patricians in the art with which they receded and gave way step by step without ever being untrue to their own nature. The Roman State was superior to the Spartan from the outset, because it possessed a power of expansion which Sparta lacked. Moreover, in Rome the family stood more independent of the State, which was not the monstrous vampire which it became to Spartan life. Crude and rough the temper of the Romans may have been, but Roman manners can in no way be compared with the deliberate brutality of Sparta.

At the very beginning of her history Rome had the good fortune to live through a long period of real kingship, which succeeded in softening antagonisms of class. After the fall of the monarchy the Patricians understood how to govern the State through the Comitia Curiata, and for a time the Republic was an aristocracy, founded solely upon birth. Against this the Plebeians made an increasingly successful resistance. They demanded that the Comitia Tributa should be joined to the Comitia Curiata for themselves alone; they finally succeeded in obtaining the Connubium, and therewith swept away the old class distinctions in the legal sense, for when there is absolute freedom of marriage between classes no class can maintain its existence as a legally exclusive caste. Upon this followed the struggle around the magistrature, which

ended in the Plebeians once more forcing an entrance into every office of the State.

Thus the aristocracy made concession after concession, until at last it appeared to have taken the lower place. But it was still in appearance only, for they managed so to establish relations with the victorious party that its best families were merged with the older aristocracy. The proud Fabian clan now held out its hand to the Valerian, who had once been liberal out and out, and the alliance between the old Patrician class and the leading Plebeian families produced the official aristocracy of the Optimate, whose position was never legally defined. It had the advantage over the older aristocracy of being to some extent accessible from below, although, as we see from the typical instance of Cicero, it was not possible at first for *homines novi* to prosper in it without having recourse to servility. They were continually excusing and justifying themselves in the eyes of the better-born. It is evident that in Cicero's day the Optimate already had tremendous power, but it was not only strong, but also on the road towards deterioration and ossification in all directions. We can trace how the number of ruling families went on shrinking, and how the necessity for the monarchic *coup d'État* was becoming more and more pressing. The real rulers were reduced to a small clique who contemplated sharing the government of the world between them.

Nevertheless it will always be a marvel how the Roman aristocracy in its great days did succeed in preserving its aristocratic dominion

under democratic forms. Outwardly, the whole machinery of the State was highly aristocratic. The meetings of the Senate were held in solemn form. At the same time the formula *Senatus Populusque Romanus*, in which it is significant to note that the Senate stands first, preserved the fiction of its being no more than on a par with the people. In fact, however, the Senate ruled; the sovereignty was vested in it, and it exercised control over the administration. In those days the whole nation appeared in the guise of an army; it marched to its assemblies in warlike array to the sound of trumpets, but these assemblies soon became tumultuous, and sat more for the purpose of voting than for discussion. In practice the Senate controlled them absolutely. The composition of these National Assemblies was also characteristic, and its consequences were far-reaching, for the lower classes were but weakly represented, and the centre of gravity lay among the wealthier citizens. All these arrangements were part of a shrewd consecutive policy, and another masterly invention was the institute of Censors, with moral and judicial authority, to which the aristocratic spirit of suspicion had given rise. Carthage, too, had her Ephors, who kept stern watch lest officials should exceed their powers. A healthy aristocracy, such as Rome was through a long period of its history, keeps intact its code of honour by means of this kind of self-control.

We have further to admire the well-ordered gradation of offices, which prevented the rise of any but practical and well-trained statesmen,

and the energetic authority wielded by these officials. Polybius, who gives us upon the whole a correct picture of the Roman State, says that the power of the Consuls is more kingly than republican. There was something in this strong official control which kept the State together, even after it had begun to expand upon Imperial lines. The training of this governing class was much more liberal than in Sparta. Rome had no State education, for the upbringing of sons was left in their parents' hands, and the position of the mother of the family was far more respected than in Sparta. As soon as the youth was grown up he entered upon his official career. None of the offices were salaried, and thus here again the poorer classes were completely excluded. In the later period the man who took the post of aedile had either to be a millionaire or was forced to borrow hugely from the numerous Orientals who inhabited Rome. We have already seen how officials could reimburse themselves when they became Propraetor or Proconsul of a Province.

It is not difficult to recognize how this system affected the education of the governing class. Its first result was that peculiar Roman hard-heartedness which held everything permissible that could serve the Roman State. Caesar, who was perhaps the mildest of all the Roman statesmen whom we know of, had still no hesitation about cutting the hands off a whole German tribe. This was a thoroughly Roman frame of mind. Regarding the resistance made by the Germans to Rome he merely remarks that " by

nature all men strive for freedom and hate the condition of slavery." This he freely admits, but his own destiny as a Roman was to reduce the Germans to servitude.

The first internal cause of the fall of the old Republic lay in the decay of the stern moral code of the governing class, and the second in the unreasonable concessions made to the passions of the lower classes. The peasant of Italy was sacrificed in his competition with the grain from Asia and Africa, in order that the Roman mob might feed plentifully and cheaply. These internal conditions of the sinking Republic are a warning and an instruction for all time, but the primal cause of decay lay in the extension of its territories and the resultant increase of responsibilities which the City Republic was by its whole situation incapable of coping with. The great dignitaries who composed the Senate were indeed men of thorough practical experience, and the Roman Republic was thereby endowed with the power of getting at the truth of facts; but still a Board of this kind in a City State is not of itself capable of carrying on a great foreign policy. It was not genius in the proper sense which dictated this continual extension of Roman territory; the cause lay rather in the nature of things, in that intolerance of powerful neighbours which drove Rome to victory upon victory, conquest upon conquest. A consciousness of her destiny as mistress of the world only appears remarkably late in her history; the idea is first expressed clearly under the Empire, when Caesar's genius had given the thought of universal

dominion its magnificent embodiment. Taken all in all, her wonderful combination of flexibility and conservatism has made Rome a model of an aristocratic government. The skill with which the Patricians made concession to the people, without letting fall the reins of power, reminds us of the way in which the English aristocracy contrived for a time to render justice to the populace by means of the House of Commons, without surrendering the control by the old nobility.

The cramped conditions of the antique world gave rise to a considerable number of Aristocracies. Modern history is otherwise, for in later times the middle and lower classes have become so increasingly conscious of their power that even in England the democratization of Parliament has become a patent fact. Mediaeval history, on the other hand, exhibits a strong aristocratic tendency, arising partly from a natural conception of class distinctions and partly from the peculiar immaturity of States in those days, who were eager to acquire great territories, and having done so, then left them very much to themselves. The politically constructive instinct of the German race did indeed give but little opportunity to aristocratic Republics on any large scale, and the prevailing form was rather an aristocratic Monarchy. When we do find a military nobility it is linked with Monarchy in some form or other. With the exception of the religious Orders of Knights, which were in reality Theocracies, the Middle Ages only give us governing Aristocracies in City life.

In antiquity, as we have seen, the harshness of aristocratic government was accentuated by slavery and by the prevalent conception of life, but in the Middle Ages it strikes a kindlier note. Happiness is of course a relative term, and yet, when we contrast present conditions, we do get the feeling that the simple man was happier in those days in many ways than he is in this age of social discontent, and for this reason we feel no repulsion against the class divisions of mediaeval times.

After the fourteenth century this primitive dominion of ruling families was followed by a time in which the power of the Guilds rose to its height, and succeeded here and there in bringing full-blown Democracies into existence. Then, as a rule in the larger Cities, we see a reaction setting in, and during the later period of the Holy Roman Empire it is safe to describe the greater Imperial Cities as thoroughly aristocratic. It was of course long since they had had any real aim of their own, but when the life of a body politic has lost its aims, its constitution ossifies of its own accord. Nuremberg has become a by-word in this respect. There, at the end of the eighteenth century, we find the "enjoying families" (*Geniessende Familien*), which was the title given to those whose members enjoyed the monopoly of election into the Council. The idea of public duty had been entirely displaced by the thought of the salary to be enjoyed. This form of corporate life carried its destruction within itself.

The long life of Aristocracies, as compared

with the democratic form of State, bears testimony to their statesmanlike prudence and wisdom. The democratic Republics of Italy fell everywhere into subjection to a Tyranny, and in every case Monarchy laid violent hands upon them, while the sternly aristocratic City States lived on until the French Revolution. Of all these none had so brilliant a history as Genoa and Venice. Of the two, Venice shone with the steadier light. In her, many aristocratic characteristics were peculiarly prominent, the uncompromising division of classes, the ingrained conservatism, and, not least, the ever-wakeful spirit of suspicion. In spite of the expansion she attained in later times, Venice was never anything but a City State, repeating many of the conditions of antiquity. Just as Rome had been the only *Urbs*, so Venice was the ruling City among all the others in her territories. Verona, Padua, and the other subject towns upon terra firma enjoyed complete municipal freedom, but their nobility were not admitted into the aristocracy of the ruling City. The Dalmatian coast was arbitrarily governed, and farther east the dependence was still more complete. When the Peloponnese fell into Venetian hands, it, as well as Candia, and later on the Crown of Cyprus, were all governed as purely subject territories, and real political rights were reserved solely for the citizens of the ruling City.

The various communities established upon the lagoons seem to have lived under democratic conditions during a long period of their early history, for we hear of all the dwellers in the

islands being occasionally summoned to a common Assembly of the people. From the end of the seventh century they elected in common a "Dux" as leader for the period of his life. The year 997 saw certain conquests made in Istria, and the Dalmatian coast towns coming under the guardianship of Venice. About the same time party-strife arose in Venice itself, and the struggle brought a number of great merchant families into prominence. The beginnings of their aristocratic domination are only dimly traceable, but from the very first they bear the stamp which makes the history of Venice so much finer a thing than that of Semitic Carthage, for we never see her merchant Princes touched with the repulsive spirit of the shopkeeper. The whole character of the Venetian State was fearless and noble from its youth up. Many poets have sung of it; our own Platen wrote, after the Republic's inglorious fall:

> Wo ist das Volk von Königen geblieben,
> Das diese Marmorhäuser durfte bauen?
>
> (Where tarries now the royal race
> Who dared to rear these marble palaces?)

Venice made everywhere the same impression of mighty riches spent in truly princely fashion, and it is this which distinguishes her citizens so markedly from the Genoese, who were equally wise politicians, but who always remained confirmed money-grubbers. They have indeed left us a few fine monuments, but the whole tone of Genoese history is on a lower plane of culture than that of Venice.

In the thirteenth century Venice stood at the height of her power, and in the fourth Crusade her citizens captured the carrying trade of all Europe. Her ships bore the Christian armies to the Holy Land, and at the same time Venice herself took active part in the great enterprise, for the taking of Constantinople and the foundation of the Latin Empire was carried out in 1204, under the leadership of the blind Doge Enrico Dandolo. The Duchies of Sparta, Athens, and all the others which were carved out of the ruins of the Byzantine Empire, lay, either directly or indirectly, under the commercial domination of Venice. The City had indeed become Queen of the Adriatic in the true sense of the word; she italianized the Orient, as far as such a thing could be done, and she did it with marvellous success. The fate of Trieste, and above all of Dalmatia at the present day, shows to what an extent it has been possible to impose Italian speech and civilization even upon a Slavonic foundation. These cities are as thoroughly Italian to all outward aspect as the towns of the mainland, although the type of their inhabitants still bears clear witness of their Slavonic origin. In the success of their methods with these races the Venetian rulers were not unlike the German Knightly Orders in their colonizing enterprises.

In her internal constitution, however, Venice had entered upon the downward road which eventually led her to oligarchy and ruin. In 1172 a Grand Council of 480 members was substituted for the Assembly of the whole people, and assumed an increasingly oligarchical shape.

Only certain families found admission into this highest governmental authority, and in 1298 this practical exclusion was given legal form in the *Golden Book of the Senatorial Families.* Thenceforward the fall of Venice was assured. By a natural process an Aristocracy so shut up within itself was bound to ossify, and to dwindle both in numbers and in vigour. The Doge became a mere instrument in the hands of the Senate of the nobles, and in all important matters he was furthermore dependent upon the assent of the governmental board or Signoria. For the rest he was "King in nothing but the purple." He lacked nothing in princely ceremonial, for the whole wealth of the State was called up to furnish the trappings for his golden ship.

Among the governing nobility suspicion was always on the alert. In 1310 the Council of Ten was added as a supreme authority over the already existing governmental bodies. The Doge, whose powers were now so completely crippled, sought and found a natural ally in a Demos as politically helpless as himself, but the attempt made by Marino Falieri to upset the constitution miscarried, and led, not only to a further strengthening and development of the Council of Ten, but also to the establishment of three State Inquisitors, whose identity was known only to the Ten. Thus one controlling body was added to another, co-ordinated, and re-divided, until the Venetian Constitution came to deserve Ranke's comparison with the Church of St. Mark whose five domes seem to be stuck one beside the other, so that no eye can tell

which dominates its fellow. It is equally impossible to find the centre of government in the Venetian State.

Every institution expressed the extreme spirit of mistrust. The Lion's open mouth upon the Giants' stair was placed there to receive secret accusations, which were certainly followed by results when their nature was political. The attitude in State trials was always based on a presumption in favour of authority. On the other hand this aristocracy were peculiarly successful in capturing foreign talent, and turning it to the service of the State. The disappearance of Venetian generals from conduct of military operations in the later centuries is a significant sign; they might have been a danger to the Republic. They were replaced therefore by alien *condottieri*, who were heaped with riches and honour, but their status as foreigners gave them no hope of playing any decisive part in the councils of the State. In other respects Venice followed the practice of the Tyrants of antiquity, and only mowed down the heads which reared themselves too high; the unswerving justice of aristocratic government was meted out to all the rest, and the mob were appeased *pane et circencibus*. The atmosphere was so rarefied upon this great Venusberg of Europe, that the plain man never attained the level of political ideas. His life was a round of money-getting and pleasure, and the nation was rocked into a slumber of prosperous content so deep that it was long before it awoke to consciousness of the rights of which it had been so completely deprived.

Here again, and even in this, how great is the contrast with the vulgarity of the commercial spirit in Carthage! There we were repelled by barbarisms in literature and art, here we find an unerring aesthetic taste, and the life of the intellect encouraged in every direction that did not threaten danger to the State. Under the rulership of Venice Padua was the leading University of the world, and the home of many a German student. Venice played another unique rôle in history in her capacity as intermediary between East and West. So long as she kept this position she was a real influence in the world. Her streets abound with signs of the influence of Byzantine civilization, and in St. Mark's we can trace clearly how Byzantine architecture imposed itself upon the style of Italy. When we turn to the Orient we see the effects of Venetian rule persisting to this day: the lingua franca of the Mediterranean coast is nothing but a debased Italian. To this no doubt the Genoese contributed, as well as the Venetians. They established themselves farther north, dominated the Black Sea, exploited the mines in the Caucasus, and made their central mart in the Crimea. Thus did the two great rivals vie in spreading Italian culture in the east.

A mighty strain of majesty and strength runs through the whole life of the Venetian State. She was unique in her mastery of the art of government, and in the marvellous brilliance and understanding of human nature displayed by her ambassadors, but there was at the same time a tendency to despise all men, and still

more all talents, whose origin was humble. Here lay the real canker at the root of the proud Republic, which had disdained to do as Rome had done and admit *homines novi* into the governing class. In the early days good blood had been allowed to enter from without, and many a noble Venetian family came of Dalmatian stock, but unfortunately this wise course was entirely forsaken in later times, and the wall of caste closed about the dwindling number of rulers, until inter-marriages and the ensuing physical and moral deterioration brought utter ruin upon Venice. Great indeed was the fall of these illustrious houses! Their decay is well typified in Manin, the last of the Doges, and the pitiful part he played when Bonaparte came in 1797 to grind the ancient Queen of the Adriatic with his heel into the dust, and offer the last humiliation to the State which had once been ruler of the eastern world. When the Republic of St. Mark revived again for a moment in 1848, and the old historic memories flickered up once more, the supreme mockery of Fate placed another Manin at the helm. This one was the son of a humble Jewish family of Venice. All the old aristocracy had been wont to gather a train of little families of clients around them, who often adopted their patron's name. From one of these sprang Daniel Manin, the great democrat whose defence of Venice against the Austrians belongs to the sublimest deeds of the nineteenth century.

The Netherlands Republic forms the most remarkable of the few exceptions to the rule

that in modern history Aristocracies are confined to City States. In this instance the comparison with Carthage is still closer than it was in the case of Venice, although in it we are once more confronted with the deep gulf between ancient and modern civilization, for it shows us that no Christian State can ever pursue the power of money as exclusively as that old Semitic merchant aristocracy did. As a commercial State the Netherlands shared many of the characteristics of Carthage, but morally it was vastly superior. In spite of all its wealth it stood upon a high level of scientific and artistic development; in fact it may be called the first modern State which gave a systematic encouragement to science and art. In the seventeenth century Leyden was the real centre of University life for the Protestant world, and Dutch scholars stood at the head of men of learning in Europe.

The constitution of this Republic was peculiarly complicated, inasmuch that it was admittedly a Federal State, in which a very sharp demarcation of classes was added to great mutual exclusiveness of territories. The Union was composed of seven Provinces. Membership of one of the great aristocratic Corporations, the *Vroedschappen*, made up of powerful burgher-families, was an indispensable preliminary to a share in city government. The Provincial Estates of the seven Provinces were composed out of these City Councillors from a certain number of privileged Cities, and out of the provincial nobility, while from these again were drawn the States General of the Union.

The *liberum veto* prevailed in these latter, as well as in the Provincial Estates, so that the government of the Netherlands lay ultimately in 6000 sovereign hands, and any single little town technically had the right to stop the whole machinery of State. The realities of political power naturally prevented the practical exercise of this theoretic privilege, and the small minority was frequently dragged in the wake of the greater number, but the constitution itself is all framed in the spirit of an autocratic City aristocracy.

Despite the *liberum veto* the State thus constituted kept its strength and power for more than a hundred years, which is another proof of how spirit may prevail over defective political forms. The State was the product of the eighty years' fight for freedom, and even at the acme of its prosperity it could never belie the ideals which gave it birth. One other safeguard stood between these ruling gentry and the perils of their wealth. The natural instinct for self-preservation in the people had wrought a tower of resistance for itself in the hero line of Orange. Thus the extraordinary analogy with Carthage is brought down even into details. Just as the great soldier family of the Barcids had stood for a democratic military opposition, and a latent monarchic element against the ruling merchant class, so in the House of Orange Holland had a hereditary race of generals, who, with their claims to the rank of Counts and Dukes of the Provinces represented an embryo monarchic power which looked to the masses for its support. It is well known that when the weapon of the Jesuit

assassin ended the great career of William the Silent the Proclamation which named him hereditary Count of Holland, Zeeland, and Utrecht was signed and ready to be promulgated. It was only withdrawn by the Provinces because the tender years of his son Maurice forbade the placing of so much power within his hands.

Hugo Grotius was right therefore when he said that the Republic arose by accident because no king was forthcoming at the moment. Nevertheless this uncompleted transference of the hereditary Countship of the two most powerful Provinces to the House of Orange gave the family practical title to royal supremacy over the Union, for the other Provinces would certainly have followed the example of Utrecht's acquiescence. By a marvellous turn of fortune the virtues of a great ancestry were continued into the third and fourth generation, for they were born rulers one and all. The people bore them a love beyond description. Wherever one of the House appeared the masses of warriors who had fought under his victorious banner flocked together to greet him with the war-cry of his house. As a rule they held the office of Stadtholder in five or six of the Provinces; they were seldom able to unite all the seven.

Thus it was that a military and democratic tradition grew up alongside of the burghers who governed from the standpoint of merchants and professors. It was the natural wish of every man who had followed the banner of Orange into countless battle-fields to raise the Captain-General into a veritable king. The real life of the State

was to be found in the struggle between these two great parties. The claims of both were equal. The great commercial families were not only the representatives of a world-wide trade, but the patrons and champions of intellectual culture as well; among their adherents they counted Spinoza and his like. The partizans of Orange on the other hand kept a watchful eye upon the place their country held in the shifting of the balance of power in Europe; their minds were always turned to war while commercial interests often inclined the States General towards a craven policy of peace. The preponderance of one party or the other meant a decline of national life in Holland. When the office of Stadtholder was abolished for a time and the merchants ruled alone, the terrible year 1672 made the Netherlands the prey of France after an inglorious war, nor was it until the House of Orange was reinstated, and the flames of party strife broke out anew, that the State recovered from the inward lethargy which had overtaken it under the government of one faction alone.

It is easy to learn from all this that history is an eternal ebb and flow in which any man must suffer shipwreck who tries to fit the life of a nation into the formulae of politics. No sooner did the House of Orange attain its hereditary status under William III. than we see the State begin to decline under its new reasonable and logical Constitution. The victorious reigning house came to an understanding with the government, and the rule of cliques began. Moreover, fresh in-

centive to vigorous life was not forthcoming; thenceforward the nation was simply rich, simply the capitalists of Europe. The Dutch have borne witness to one of the noblest truths of history, namely that no nation upon earth can bear up for long under an excess of wealth, for when a certain measure of prosperity is passed, its blessings become a curse. Holland was choked by its own fat at last. It lacked all the heroic elements of a State, and finally perished ingloriously at the same time and for the same causes as Venice. To-day it is a well-organized monarchy in the second rank of Powers, and its history has lost all its deeper interest.

In quite modern times we have only once seen an aristocratic Republic enjoy an ephemeral existence in fact though not in law. I speak of the Southern States in the North American Union. Here again many of the advantages peculiar to Aristocracies appear to evoke our admiration. We see a really astonishing grasp of the art of government. From the purely technical standpoint this Aristocracy of slave-owners was infinitely superior to the Democracy of the North. The outbreak of war displayed the wealth of their talents. Our officers all speak with sympathy of the South because it showed so much the most military capacity. West Point, the only military college in the Union, was attended only by the youth of the South, for the North was too busy raking in the dollars, and no military talent showed itself there until the war called it forth. Yet this aristocracy was imbued, like others, with a terrible hard-

heartedness, for it looked upon labour absolutely in the light of capital. Labour in general will always be despised where the greater part of it is forced, for under these circumstances even the free workman will command no respect. The slave-owners embody this trait with hideous clarity. They showed their contempt for human life even in their brutal treatment of prisoners of war. Nevertheless this aristocracy is one more example of a power of governing and using the human race which is quite beyond the ordinary.

XX

THE DEMOCRATIC REPUBLIC

EVEN as a Theocracy is the most stagnant, a Monarchy the most many-sided, and an Aristocracy the most elaborately planned of political forms, so a Democracy is the most easily comprehended and the most beloved by the people. Its fundamental idea is the natural equality of all mankind. This notion has something of the sublime, and it is not hard to understand why it has often had an intoxicating effect. We know well enough that it is only a half-truth which can never be completely realized, but it strikes its roots deep into human nature. The ordinary vision cannot penetrate far enough to see that although we may all be equal as men we are still unequal as individuals, and the average human brain pictures an absolute equality. Therefore, at a certain stage of national development a Democracy may work in the interests of civilization, and when presented in a reasonable shape it is the best beloved of all forms of government, and is regarded as so natural in the countries where it prevails that all other forms seem crudely tyrannical or devoid of sense. Its character may vary widely with social conditions, but its ideal always remains

the δῆμος μόναρχος. The people is always to be sole ruler, and the aim is to extend their rights in such a manner that all shall finally be equal, at all events upon paper.

Nearly every Democracy begins with some form of plebiscite. Universal suffrage is the next step, and finally the citizens will even be paid to fulfil their political duties, for it is the function of the State to remove all distinction between rich and poor, and there is no point at which it is possible to call a halt, because the whole system starts from a false principle. If great and small are given legal equality in a Federal State, logic sooner or later takes its revenge, and it is the same with a Democracy. If we try to ignore the differences between individuals and place them all on one level, the contradiction must somehow or other make itself felt, and we have to fall back on violent measures like the exploitation of the rich.

Artificial Democracies are comparatively commoner than artificial Monarchies or Aristocracies. You cannot construct a nobility out of nothing, and it is likewise impossible to make a dynasty at pleasure, but it is quite feasible to introduce democratic forms by an over-hasty revolution, even into countries where manners and customs present such sharp social contrasts that they can find no natural soil. Once introduced, these democratic forms can persist, because they are very elastic, and an aristocratic element can well accommodate itself to them. This is the case in Berne to-day; or, to take another instance, look at modern France. There, under a purely

democratic Constitution, there flourishes in fact a complete plutocracy, an oligarchy of a few big banking houses, who avail themselves silently of democratic forms in order to exploit them for their own ends.

Thus the ideas of equality and of the natural reasonableness of the average human being of full age must have sunk deep into the habits of a nation before Democracy pure and simple can maintain itself. Even so it demands that a faith, which is often founded on myths and delusions, shall be given to its assurances of liberty, whereas it is clear that a well-ordered Monarchy can guarantee a much higher degree of freedom to its subjects. Nevertheless this faith is a very power in a Democracy, and works in the same way as monarchical feeling and tradition in a kingdom. Upon it is chiefly founded the patriotism which comes so much to the fore in a moderately well-organized Democracy. The Swiss patriotism and pride of liberty which found expression in the old saying, "We will not be controlled," was really only negative. It is undeniable that Swiss liberty is positively less than, let us say, the Prussian; particularly with regard to Communal freedom, which is far greater with us. It is because the populace were flattered by the notion of being free when they had no hereditary rulers that the idea has waxed so strong in the course of centuries, and patriotism has become a force within it. The direct result is to give a nation a feeling of respect and worship for its own institutions which will not brook criticism. I should like to see the Swiss

writer who would dare to point out the faults of Democracy at home with the same freedom with which any one of us might mention the weaknesses of Monarchy. He would be stoned in the streets !

This temper is at the same time the strength of all passably good democracies. A sovereign people will make untold sacrifices when it has once recognized that its existence is at stake. The Americans proved this in the Civil War, which was not really fought at all upon the negro question. The whole Union would have been shattered if the South had won, hence the terrific exertions and sacrifices which the North threw into the struggle.

We may therefore regard the belief in freedom as one of the living forces of this form of State, but not freedom itself. Here once more we stumble against the fallacy that Rousseau first put words to, and upon which every Radical is still nourished, which declares that every man is obeying himself, and is consequently truly free when he is obeying the people as a whole. This is crudely untrue, as even Herodotus realized when he said " in Democracies the majority is taken for the whole." In political science, as in so much else, we have to go back to the Ancients for our guiding principles and our profoundest ideas. From them you will learn what we should come to if we threw aside our classical models, and to-day we seem to be on the high road to this folly.

This simple saying of Herodotus is the clue to the whole thing ; the individual does not obey

himself, he obeys the majority. When all men are equal before the law the majority must give the ultimate decision. It behoves us therefore to be quite clear as to whether there is any inherent reasonableness in this government by the majority. The answer is simple: the dominion of the majority does not give the smallest guarantee for the dominion of reason and law. "Majorities are folly," says Schiller, "and reason has always lodged among the few." There are certain questions, among them all those which concern science or religion, which no majority can ever be competent to decide. It is obviously foolish to ask its opinion on any point of history; for here the judgment of some one individual may be worth that of every one else put together. The same applies to religious discussions. It is both tragic and comic to watch distinguished men disputing and putting their decision to the vote, and then to hear the inevitable assertion of the minority that they have not been defeated. They are right, moreover, for no vote can settle questions of principle.

A decision by the majority is only based on reason when the question at issue concerns the development of a real power, and the expression of a Will. In a Democracy supremacy is derived solely from the people, therefore its decisions must bow to the will of the people, which can only be ascertained by the voice of the majority. The presumption is that the will of the majority could be enforced by violence in the last resort, consequently the majority decides, as representing physical force. This is the true foundation of its

dominion, let democratic idealists say what they like ; the will of the majority is the strongest, and for this reason men give it the sanction of law. Every unprejudiced historian will admit that it is the only reasonable system by which a State can proceed upon democratic lines, but we need not delude ourselves into the idea that there is anything inherently reasonable or ideal in a set of circumstances in which the final constitutional authority is not self-derived. There can be absolutely no question of government by the majority being in itself either reasonable or just. We must envisage these matters only *in concreto.* When the Committee of Public Safety sent people to the guillotine just as they chose in the name of the majority of the French nation, they were just as much tyrants as Philip II. of Spain had been. It made no difference to the victims in whose name their heads fell into the basket, for the one slavery was as good as the other. Are we to call it liberty when decent people have to bow before the mob, as we have known happen in Zurich ? The Ancients had discovered long ago that liberty, rightly understood, lies only in *ἰσονομία*, and that the word misconstrued leads to *σκυταλισμός*, the dominion of mere brute force.

The rule of the majority, then, which is a necessary adjunct of Democracy, is most certainly no security for political liberty. Each citizen is given the right to make his voice heard in the national decisions, but if he does not go with the majority he must just put up with it, and hope that his turn will come some day. " One half of freedom is alternately to rule and

to be ruled," as Aristotle said long ago. He is here describing political liberty, and this conception of it finds no guarantee of fulfilment in government by a majority.

When we turn to the social liberty which forms the other half of freedom, we do not find a Democracy affording it any particular security either. "To live according to our own sweet will" may be possible in a Democracy, but it cannot by any means certainly be so. The idea of the State was so predominant in the Democracies of antiquity that the individual citizen was accorded absolutely no freedom of action, but was early taken under the discipline of the State, to whose brilliancy and greatness all other considerations had to give way. Sharp indeed is the contrast between this and the modern Democracy, which as we know it, seems particularly created for an economic age like our own, which thinks only of getting on by every means it can, and lives in the illusion that the heights of civilization can be reached by telephones and telegraphs. Modern Democracy sets absolutely no restraints upon the commercial intercourse between citizens. Life in the United States is a terribly hard school, in which many perish altogether, but there is absolute freedom of action in every direction, and in this lies the secret of the singular charm which this State possesses for the average man of the present day.

What I have said suffices to show that we cannot dismiss this particular political form with a few general observations. Republican Democracy may show many different varieties of

Constitution, even though Monarchies are still richer in types. First of all there are the various expedients for ascertaining the will of the majority. The idea of popular government pure and simple is most completely realized by allowing each individual a direct share in decisions, and assembling the citizens in the market-place upon summons of a herald, there to record their votes by raising their hands. This is the ideal of a very small City-State, or of little territories like Uri and Appenzell-Inner Rhoden, and in them it is direct democracy in its purest practical shape, but in bigger States the town in which the voting takes place gets a complete preponderance over the rest of the country.

A Democracy with indirect representation is more subtle, more complex, but also less democratic, for there is an aristocratic element in every form of election. Outward circumstances and considerations of distance compel this more modern form of Democracy to have recourse to representation by substitute. Inevitable it may be, but it is still substitution, and is naturally the cause of occasional discontents, for the sovereign people murmurs that its delegates have no powers given them to alter the Constitution without more ado, and that it wishes to make its own voice directly heard. This leads up to the compromise which we find in Switzerland at the present day ; there representation is the general rule, replaced by a referendum in questions of particular importance.

Whether slavery is or is not the basis of society makes a more essential difference in the nature of

democratic Republics. We have seen already that an aristocracy combined with slavery appears as an aristocracy intensified, while with a Democracy the case is obviously reversed, for it thus belies its fundamental principle of equality in one direction, and becomes an aristocracy of the total number of the free citizens as against the toiling and serving class of slaves. On the other side, however, and herein lies the subtlety, these very conditions may give a peculiar completeness to the conception of equality among the free citizens themselves. They are able to discharge all the sordid cares of life upon the broad shoulders of the slaves, and thus only the finer social elements go to the making of the nation which enjoys full rights and privileges. Under this system Democracy may appear unusually fine and noble.

A nation thus composed may not only carry out the idea of legal equality to its ultimate conclusion, but under certain circumstances it may develop a delicacy of taste and a majesty of intellect which are otherwise only found among an aristocratic ruling class. This possibility is of infinite importance in a Democracy, since *ex hypothesi* the vote of the majority is decisive and since it erects into a fundamental law of the Constitution the dictum *vox populi, vox Dei*, which can only have real validity in certain moments of national excitement. This government by the majority can be reduced in practice, either into the vulgar dominion of money, or else, where the masses are better educated and more responsive to noble ideas, it can be modified

by the power of talent and of great patriotic ambition. It is clear, however, that these finer forces of the soul develop more easily in a society which is based upon slavery. Without such a foundation it is impossible to imagine a nation like the Athenians, who allowed Pericles to inspire them not only for great wars but also for great artistic enterprises.

Here again, however, we must be on our guard against generalizations. The historian knows no worse enemy than system, which tempts him to arrange life as it is lived to suit the headings for the chapters of his book. Slavery is not a necessary adjunct to fine and generous ambitions. We must not forget that the Democracy of Florence stood beside Athens to point the way with the clearest certainty to the most ideal goal of human endeavour. What a place of memories is the Signoria in Florence to this day! Yet the Golden Age of this State was but short, and we must suppose that it was due rather to the character of the people than to their political forms. Nevertheless it is certain that where the majority rules the national instinct finds its most direct expression.

The political temper of a truly ruling Demos is a very remarkable study. It is clear that it must totally lack certain finer attributes of political intelligence, and more especially the gift of foresight, which is simply absent from popular government. This applies particularly to its foreign policy, a sphere in which it must always act from a very limited range of vision. *L'esprit d'escalier* is a pre-eminently democratic charac-

teristic. Besides this there is a singular contradiction which always makes itself felt in the inner nature of a governing Demos. On the one hand we see that terrible demoniacal and base passion—envy, which plays an immeasurably important part in the life of a Democracy. No doubt if the inner heart of Germany stood revealed it would be seen to have reached gigantic strength even there, as was proved by the treatment that Bismarck received. Now that he has fallen he is beginning once more to find theoretic admirers among his ancient enemies, because he has come down to their level—or so it seems. They find an intense pleasure in the thought.[1] In their institution of ostracism the Athenians had absolutely set up a public means of gratifying this passion, which they turned into a legal weapon.

The Presidents of the United States, with a few exceptions, have never been men of great ability, because these are not of the stuff to make head against the flood of slander which envy lets loose over them. There will always be natures of too rare a quality for the common herd to understand; for this reason Goethe will never be as popular an author as Schiller. In the early days of the North American Republic Alexander Hamilton was the most remarkable figure, more so in fact than Washington, yet the populace regarded him as the proverbial dog looked upon the glass of wine. He aroused the same sentiments as William Humboldt did at the Confederate Diet at Frankfurt, for he gave people

[1] Lecture delivered in February 1893.

the uncomfortable feeling that they did not understand him.

In strange contrast with this thoroughly democratic passion of envy, every noble-minded and independent nation will evince a capacity for hero-worship in times of excitement, until it may absolutely deify some individual great man. It becomes evident at such moments that the people really have an instinct which recognizes outstanding greatness. It is impossible to decide theoretically when it will display itself, for greatness alone is not the deciding factor. It must be admitted that Bismarck has never really been beloved by the mass of the nation, for only the educated classes have properly grasped the unique greatness of the man. Pericles, on the other hand, although his character was essentially lofty, attained through his marvellous gift of eloquence to such an influence over the Athenian people that Thucydides could say of him, "He was not so much led by the people as himself their leader." For a time he ruled Athens like a king, and marvellous indeed were the home-truths which he told that Demos to their faces, for there was no trace of the flatterer in him.

This phenomenon of hero-worship appears from time to time in every Democracy. It explains the alliance of the populace with the Barcidae in Carthage and with the House of Orange in the Netherlands. We meet it again in the United States, when Washington had to thrust from him the honours which were offered him. His example did much to establish democratic institutions firmly in his country, but so

great did his fame become, and so devotedly was he worshipped, that he had great difficulty in waving aside the homage that was done him. Later on General Jackson, the "Publicola," held a similar position for a brief period. He was a thoroughly coarse-natured man, but he was the conqueror of Texas, and his commercial policy was very much in accord with popular taste. Under him the State was perilously near to becoming a dictatorship, although in the end the good sense of the nation gained the upper hand. Later on, the reverence of the masses for President Lincoln rose to such a pitch that he could perfectly well have attained to kingly power among them had he so willed it. But he was of the same stamp as Washington, and he remained a convinced adherent of democratic government. In spite of all these instances the danger of a dictatorship is as constantly present in a democratic Republic as in an aristocratic one, although it is no doubt most of all to be expected in Republics without republicans, as France, with her two Napoleons, has proved to us. Thus we find Democracies swayed by curiously contradictory elements; on the one hand envy, on the other a popular delight in great heroic figures.

Where the foundation of slavery is lacking, that is to say in all modern Democracies, one may expect to find a dominant note of political mediocrity. Really striking and distinguished qualities are less comprehensible by the masses, and we may look in vain to see Art and Science encouraged by modern Democracy, which has

never known a second Florence. Switzerland is a type of this form of government in our own day. There we see national schools and public health encouraged with praiseworthy eagerness, but the establishment even of polytechnics has been attended with the greatest difficulties, for the Swiss nation could not be brought to realize the usefulness of these institutions. Neither have universities ever been able to take much hold in Switzerland. They are the home of an aristocratic form of culture, and the natural inclination of a Democracy is to extend a modicum of education and prosperity over the widest possible circle, without any desire to exceed this standard.

These tendencies stand in close connexion with that appearance of economy which invests a Democracy and endears it so much to the popular imagination. Since it can have neither the brilliancy of a Court nor the majesty of a Senate to support, it seems that it must at all events be cheaper than either a monarchical or an aristocratic form of State, and absolutely mistaken as the notion is it is used for the delusion of the populace and the half-educated. Not only has France been more expensively administered under its bureaucratic Democracy than even under Louis XIV. himself, but in North America also democratic government has proved extremely costly. It only differs from a Monarchy in that all the outgoings of the State are not clearly set forth in the Budget, but a very simple calculation suffices to show that the President of the United States is a much more expensive

official than the Emperor of Germany. A single Presidential Election, with all the agitations which accompany it in business circles and in the Press, costs far more than the Civil Lists of all our Princes put together. The expense is voluntarily borne by the American people, and no mention is made of it, but it must naturally be counted in forming a judgment upon the cheapness of government. A further comparison between the budget of a big American town like Cincinnati, and that of Berlin or Hamburg, would show that the various unofficial associations administer far less economically than the German Communes who have only the public interest to consult, because they are each and all of them limited companies who must consider the worthies who hold shares in them. It is the same throughout, and an examination in detail proves that the whole theory of the cheapness of democratic government has very little foundation in fact.

It is of course true that Democracies have a tendency to exploit the rich for the benefit of State, which accords with the principle of democratic equality. It is the business of the State to do away with the difference between rich and poor, therefore there may be no high-salaried officials, and the lower grades of the Civil Service are well paid in comparison. Finally, as in Athens, the citizens themselves are remunerated for exercising their political duties, and on the other side the State reimburses itself in great measure by levying contributions from the rich. If the Athenians wanted a fleet, certain rich burghers were simply requisitioned to supply

triremes. It is almost as if the wealthy must purchase pardon for exceeding the standard of universal equality. The same may be said of the system which prevailed in Swiss Cantons until the most recent times. The Swiss have always been the most economical nation in Europe, and the general frugality of habits, admirable as it is in some ways, has also a very petty side to it, which has reacted upon the State; while the old aristocracies of Berne and others were in existence, there was a tendency to niggardliness in questions of expenditure. The Canton of the city of Basle, which broke off from the Province of Basle in 1830, had a definitely aristocratic government until quite lately in spite of its purely democratic Constitution. Members of the same old families, the Fischers, the Burckhardts, the Sarrazins, etc., were elected again and again, and they met the expenses of the State out of their own purses, so that it was like a tacit understanding between the sovereign people and the old race of rulers. Thus the cheapness of Swiss administration is not to be explained by the forms of its government, but by the customs of the people. When the nation is not thrifty and close-fisted, but rather resembles the citizens of the United States, then the cheapness of democratic government is proved to be an illusion.

The ugly reproach of fickleness is likewise not applicable to Democracies without qualification. City Democracies may indeed have an unsettled element, because they lack an established officialdom, and because their form of govern-

ment is unfavourable to the development of a class of men who are politicians by calling with inherited traditions. Where these are not forthcoming, the unforeseen moods of fortune may indeed produce unstable conditions. On the whole, however, experience has justified the French historian who said that liberalism does not make its home among the people. The people are peculiarly responsive to direct and simple sensations, good or bad alike; they are easily roused by a skilful demagogue, but force of habit will generally make them cling to their old ways, and it is misleading to talk positively of the restless fickleness of Democracies. Certain party cleavages strike root very deeply in pure Democracies, and are carried on from generation to generation. Certain catchwords cast over the average voter a spell which may remain unbroken for centuries. Switzerland is not only the most frugal of European countries, it is also the most conservative. When we examine the seven Cantons of the "Sonderbund" we find to our amazement that they are the very ones which in 1586 concluded the Borromean League for the honour of the Catholic Church. It is likewise impossible to call the Americans radical in the political sense, although the word applies to their social life. Rather have they held by certain democratic principles with a reverence which is rarely forthcoming in the swifter stream of our older European civilization. Belief in the infallibility of popular instinct and similar theories are long-lived on the other side of the Atlantic. In New York the mob are nothing if

not reactionary, and are a hindrance to drastic reforms in any direction; they have struck a bargain of reciprocal rascality with the Tammany ring, for they feel at home under the rule of brothel-keepers.

In spite of this conservative temper among the masses it is not to be denied that demagogues who understand how to flatter the people and how to work upon their feelings may exercise very dangerous influence in a Democracy. The real demagogue is usually morally the inferior of the courtly flatterer, for the man who lavishes immoderate praise upon princes may at least believe that they stand above the common herd, whereas the demagogue who burns incense before the mob and declares that the real intelligence of the nation lies in their horny fists, must know that he is a liar. This is why the political demagogue is one of the most repulsive figures in history; it is his hypocrisy which makes him particularly disgusting. Brutal bullies like Danton are the best of the breed; there was at least a touch of nature in his blatant lust for blood. A beast himself, he sought to awake the beast in other men. Robespierre, on the other hand, was a humbug through and through, and yet he was adored; every fishwife of the Halles swore that he was virtue personified. Natures like his can upset all the calculations of state-craft, for their influence upon the nerves of an excitable nation can never be reckoned with.

It is quite clear that the democratic equality before the law can only represent sound conditions

when there is an approximate social equality among the citizens; prosperity more or less evenly divided is the right soil for a thriving Democracy. Switzerland provided tolerably natural foundations for this form of government, up till a few decades ago, before the introduction of railways. The difficulties arise when social contrasts become marked and the power of wealth threatens to master the democratic machine. In America men rise and fall so rapidly and so often upon the social ladder that a potential social equality is really existent, for it is so easy to imagine; therefore to this extent the premises are forthcoming on which a legal equality may be constructed. Nevertheless America, like Switzerland, has now reached a point where the wealth of its millionaires begins to be a danger to the State. It is an open secret that powerful rings are constantly being formed there, who attempt to set the machinery of government in motion to promote their own selfish speculations. If this process of development continues, as it seems likely to do, the Constitution of the United States, which is already on a downward path, may easily slide into a fearful corruption.

A strong instinct for law is another essential for the stability of a democratic equality. The nation must place a superstitious faith in the magical wisdom of a majority, and be swayed by a real respect for the laws which are made under its sanction. Without such support no democratic government can keep even tolerable order. Now it is quite evident that Democracy

contains many impulses in its very nature which are not amenable to law. If the people is sovereign it follows that they can give the final decision, and it was no great step from the *κύριος ὁ νόμος τοῦ δήμου* of Athens to the *ὁ δῆμος κύριος τῶν νόμων* which came after it. Demos is sovereign, therefore what is there to prevent it from sweeping aside existing laws by a simple *ψήφισμα*, as indeed was often done in Athens in the later days?

A still greater danger lies in the temptation to the individual to commit crime in mere self-defence. Legal institutions in a democracy are apt to be very imperfect, because a sovereign people is generally close-fisted, and begrudges the expenditure needful for a well-organized administration of justice. The appointment of judges is another difficulty, for if they are to enjoy real independence and respect they must be given a relatively secure position and the certainty of a long term of office, if not more. This cannot exist in a Democracy pure and simple which on principle demands rapidly recurring elections.

The results of this system vary according to national characteristics. We have all heard how the inhabitants of the prison in the Schwyz Canton suffer no interruption in their occasional sorties in quest of liquor and the beauties of nature, because the Confederation finds it too expensive to guard the rascals properly. In America the weakness of law, combined with the reckless and anarchical temper of the nation, lead to methods which have something imposing

in their very vileness. In the year 1891, 123 condemned criminals were executed by the Sheriff's warrant, as against 195 alleged misdoers by order of Judge Lynch. His procedure strikes transatlantic democrats as alluringly straightforward ; he gets to work quicker than the Sheriff, and above all he presents no costs. These are terrible conditions for a country which has left its first youth behind. The number of alleged criminals illegally done to death is fully half as big again as of those executed with the forms of law ! Moreover, official accounts of these happenings are published in every newspaper, as if they were matters of course, and even with a certain complacency. The Yankee likes his country to go one better than the rest of the world in everything, so in this direction at any rate he ought to be content, for these figures certainly outdo those of every other country. Persons who pretend to disregard such matters have not learned how to think scientifically.

This feebleness of law is closely connected with the whole of the country's institutions, and is assisted by the uncivilized conditions which still prevail in the southern parts of the Union. Of course no State can be founded on the negative virtues of Christianity alone. Our own Saxon forefathers punished horse-stealing with death for the same reasons as prompt the Southern States of America, and their procedure was equally summary. It is a mistake to take up a sentimental attitude upon these questions, but still there can be no doubt that this manner of administering justice must ultimately utterly

devastate the instinct for law in the nation and react destructively on the Democracy itself. This much we may safely say: if a firm and reliable administration of law was the strong point of such aristocracies as Berne and Venice, it is the weak spot of Democracy.

This peculiar American custom of eking out defects in the working of their laws by resorting to violent measures on their own account leads us to the further questions of how far Democracy lays down a general principle of social freedom, and of whether it is true that this form of State gives more openings than any other to every form of talent. From what we have seen, it is clear that industrial and financial talents do indeed take root and flourish, but that subtler and deeper qualities find no natural soil, nor indeed can they ever, for the natures which possess them are aristocrats born. Bancroft, formerly American Ambassador in Germany, often told us that he loved his native land, but that when he returned there he would miss the kind of social intercourse he found amongst us. There is a poverty of intellectual atmosphere over there which is not only due to a young colonial civilization. It is undemocratic if an individual's talent rises above a certain level. Real brilliance of intellect is coldly looked upon, and dollar-getting is the only sphere in which distinction is readily forgiven.

Democracy permits an absolute freedom of competition in the sphere of economics, and it is very singular to see side by side with this the utter recklessness with which the sovereign people

does not hesitate to meddle with the private affairs of the individual and the family, when incited thereto by persuasive demagogues. The unlimited political freedom in many American States is in sharpest contrast to the terrific temperance laws which exist side by side with it, and the conditions thus created are what the German immigrants find hardest to bear. America is a country of weak laws but stern morality. There is still life in the Calvinism whose warring sects were the real founders of the Union, for the little States of New England were the model on which the whole body politic was afterwards formed. In Germany we are accustomed to identify our political and religious parties, and we should expect a liberal politician to be necessarily a member of Evangelical Unions. In Democracies, on the contrary, a stern dogmatism is the rule, and its narrowness has proved a real blessing in the United States, for there Sabbath-keeping in all its repulsiveness is a real necessity. Nothing could be more distasteful to German feeling than this weekly day of rest and absolute idleness. Our weakness lies rather in the direction of making Sunday too much of a high day, and it would do us no harm to observe it rather more strictly. God preserve us, however, from the English-American Sabbath! The six days of labour must have totally exhausted every nerve and muscle before such absolute lethargy can seem welcome on the seventh. Thus the hard and narrow Church membership of America proves itself as a practical necessity there, although it is so contrary to our free German

point of view. We recognize that Democracy must be grounded on very strict observance of religion if it is not to fall to pieces altogether.

The temperance laws of America are open to the same criticism as its keeping of the Sabbath. No doubt Germans often drink rather more than they should, but upon the whole it is with us a harmless pleasure, whereas if the American once begins drinking he drinks himself blind drunk. Therefore the legislative bodies have wisely directed their attention to remedying the evil, and their efforts have been supplemented by clerical fanatics, preaching against drink in general, and putting the innocuous German beer on the same level as the fearful American spirits. Hence the horrible temperance legislation in many of the States, which would lead to a preposterous inquisition into the privacy of every home if it were to be carried into effect. It never could be in a Monarchy, for every king would feel that such an inquisition would be exceeding his powers. The sovereign people has no such scruples. "I may allow myself to do everything," it says, "for I am everything, I am the great collectivity of the State." These laws are evaded on a colossal scale, they lead to intriguing and all manner of deceit, but if the public morality which inspired them were less active and energetic, the whole State would fall to pieces from the looseness of its political forms and its defective instinct for justice. It is the instinct of self-preservation, calling ethics to aid in correcting and supplying the deficiencies of law.

You have only got to look at the New York

mob, which is composed of the offscourings of the world, and yet how these lost elements of society are compelled to exert themselves by being thrown, as they are, upon their own resources. Do you suppose that the Prussian police could hold them in check half as effectively as the stern law of necessity ? Every man among them knows well enough that he may die of hunger and no living soul will care. The Germans in America have a proverb which the Yankees themselves have adopted, which says that no immigrant can strike luck till he has spent every penny he brought out of Europe. Each must go through a hard and cruel school before he can hope to get his foot upon the ladder, and the terror of starvation is the chief teacher in that school.

Even good society is not particularly lax in a Democracy, although it is often erroneously supposed to be so. In America, as a matter of fact, it is in many ways much stricter than in the old countries of Europe. At a German Spa one can generally find out the antecedents of most of the people one meets there if they move in good society, for they all carry their titles about with them, and the pot can be constructed from the handle. In America, where everybody is Mr. So-and-So, one is as likely to be sitting next a discharged convict as a great merchant. Consequently the good families withdraw from intercourse as sea-anemones shrivel at the touch of a finger. It is much more difficult to form anything but the most distant acquaintanceships in America than it is here, for the really

well-bred man feels an instinctive distrust of strangers. Thus we find a very palpable social exclusiveness existing side by side with a complete political equality.

It is quite peculiarly difficult for Democracies to find channels by which the will of the State may be given a real practical effect, without neglecting the principles of universal equality. It is inherent in the system that officials should be elected, and that at frequent intervals, for were it otherwise the sovereign people would cease to be really supreme, and yet it is impossible to have a really efficient Civil Service without a long-established code of honour, and certain inherited principles of class tradition and outlook. Moreover Government is an art which must be learned, and has its trade secrets like any other. In a Democracy the bureaucracy is invaded by amateurs, and, worse still, by speculators, who destroy its peculiar spirit. The question of payment is a further difficulty. The innate miserliness of a sovereign people found an unsalaried Civil Service most to its taste, until it discovered that it smacked strongly of an aristocracy to have only rich men holding office. Paid officials were therefore substituted, and thus we observe the marvellous phenomenon of an English local government serving as a rule without payment, while in America all the analogous posts are paid. It is clear to what an extent this must arouse the vulgar spirit of speculation, and the United States are in fact examples of the principle that the victor claims the spoil. The very instant a new President

is elected all official posts are held to be vacant, to be filled anew by the hangers-on of the successful party. Recent history has clearly shown how the whole Civil Service is thereby shattered, and how the whole strife of parties degenerates into a mere squabble over booty.

The way in which salaries are graduated is also extremely significant. Its principal characteristic is mediocrity. Clerks and subordinates are much better paid than in the German Civil Service, as this is the only way of filling posts which are less sought after and enjoy less consideration than those of waiters in a hotel. The President, on the other hand, receives a salary ridiculously disproportionate to the country's wealth, for the scale on which we pay our Ministers and Generals is considered undemocratic. Nevertheless these high positions demand luxury and colossal expenditure, which no American official can meet out of his beggarly salary, and so here again the result is the intriguing and corruption which has already worked so much mischief to the Civil Service in the United States.

The example of France by no means disproves the rule that it is hard for Democracies to produce an efficient Civil Service. The French still have the monarchic bureaucracy of Bonaparte; no one can predict with certainty what the fate of the old machine will be if the passage of time still brings it no new monarch, but up till the present it is not a republican organization.

A Republic is confronted with still more serious difficulties in the matter of a standing army. All history has shown that such an

army, whose commissioned ranks are imbued with definite class feelings, will always be monarchically inclined. A legitimate king has much less cause than a Republic to fear a great military leader. Even if a king cannot lead his army himself, his historic rights and position place him above the necessity to dread a rival captain, but Republics look upon their victorious generals with much greater apprehension, and cast about how best to get rid of them lest they should rapidly make hay with the Constitution. The French Republic recognized this danger in 1848 when it decreed that its President should never wear military uniform nor fill a military post, although all military appointments were in his control. We know how futile these precautions proved, and how the man who directed the destinies of the army used his power to overthrow the Republic. We may say broadly, that the happiest and most normal position for a republican State is to be like the American Union without any neighbours who can threaten it from without. The United States have no need to fear Mexico and the decaying Creole States, and Canada gives them so little uneasiness that their thoughts are much more turned towards annexing the country themselves, an enterprise in which I for one heartily wish them success.

There are thus peculiar difficulties incident to the organization of the army and the Civil Service in a Democracy. In Germany the State can undertake many more enterprises than it can possibly embark on in America, where it has not been in a position to create a reliable

official class, and where the word "politics" has unpleasant associations, just as the word "political" was at one time synonymous with "Machiavellian" in German ears. All great social legislation is impracticable in the United States because the best elements of society are not enlisted in the service of the State, which is here seen shorn of prestige or dignity. This in itself is enough to account for the difficulties which confront the supreme authority. There is in addition the terribly hard question with which every Republic must grapple, of how this supreme authority shall itself be organized. Any single individual elected by popular vote, as Louis Napoleon was in France in 1848, is invested with so much power that republican institutions can scarcely withstand it. Napoleon could truthfully remind the National Assembly that he had more votes behind him than all the rest of them put together. The present French Republic has on this account hedged in the office of President with safeguards most carefully devised. It was determined to place one man at the head, but his power was not to exceed certain limits, therefore he was to be elected, not by the sovereign people but by the Representative Assembly with its few hundred votes. To this was added the really comic inconsistency which I have referred to already, of making the President rule through ministers whose responsibility he is not to share, except in the case of a *coup d'État* or violation of the Constitution.

In America, where republicanism is taken seriously, the President is himself an official

and answerable for his own actions and those of his ministers. Therefore he cannot be compelled to follow counsels with which he does not agree, as a monarch may, under certain circumstances, be forced to do, and consequently parliamentary government is here quite out of the question. Thus the American President is very much more powerful than the King of England, simply because he is directly responsible. We must not fail to notice that the first colonists of New England had a very long monarchical history behind them. Hence the custom which placed an individual official, a governor, at the head of every colony, and this governor was afterward simply transformed into an official of the Republic. Thus the highest posts were normally filled by a single individual, and the system found its logical outcome in the appointment of a President at the head of the whole Union. In this instance his power was the less dangerous because he presided over a Federal State, and also because his activity was limited in its scope, being confined to the postal system, the coinage, and foreign policy, so that even a strong man could hardly become a danger to the Democracy. The powers of the governors are likewise restricted, since State interference is narrowly limited, and political life within its boundaries is at once primitive and provincial.

Where conditions are different, as they are in a single State like France, the power of an individual ruler may indeed be a serious menace to a Democratic Republic, but the nomination of a Council at the head of affairs may bring with it the other danger of a Government divided

and disputing within itself. We have a terrifying example of this kind of government in the Directory during the French Revolution, which was ended by the 18th Brumaire; history has seldom known a viler. In this matter also much turns on the ancient custom and tradition of the State. Government by a Council in Switzerland is as old as the Confederation itself, and many party antagonisms are stifled there in the blessed name of peace.

Roughly speaking, the foregoing are the characteristics common to all Democracies. It is no easy task to disentangle them from the multiplicity of forms which democratic States assume.

It is important to remember that the democratic principle of free economic competition is beginning to work radical changes in this form of State, for it is leading to the practical dominion of the Stock Exchanges. This state of things has not so far become intolerable in America, because the young country is still making such gigantic advances in prosperity that the question has not yet arisen of whether certain individuals are acquiring a disproportionate share of it for themselves.

No one who does not parrot-wise repeat the emptiest phrases of Radical journals can fail to see that both the great American parties are merely greedy cliques. In like manner one reality at all events in the France of to-day is the dominion of the Bourse over the country, and of the Rothschilds over the Bourse. This is the actual condition of affairs, which is tolerated

because it affords an opportunity of enriching himself to every one whose conscience is not overscrupulous. *Enrichissez-vous* was indeed the motto of that July-Monarchy which was the first real break in the old tradition, and opened vistas of revolution without end.

All these are arguments enough to show why democratic forms of State have never taken root in the oriental world. With the exception of the Phoenician settlements upon her coasts, Asia has never known a Democracy. The peculiar limitations of the eastern mind stand as the poles asunder from democratic lack of restraints and carelessness of consequences. The Greeks, on the other hand, attained their zenith under this form of State, and we are bound to say that the Hellenic character, and the Ionic in particular, was best expressed by a Democracy founded upon slavery. In the Middle Ages this form of State was checked in its development by the old class divisions of society, and it only had a brief age of greatness in the Italian cities, particularly in Florence, which resembled ancient Athens in so many ways. Yet even the Hellenic Democracy soon had to bow before the military monarchy of Macedon, and the towns of Italy were the cradle of passions which foredoomed their political forms to an early death. The end came almost always in their subjugation under a tyrant who had endeared himself to the masses until he seemed to them no tyrant at all.

It would be foolish to draw an analogy between Athens and the Democracies of modern times. Conditions are quite different in the vast area

of Continental States, where economic freedom for the individual is the most essential point, and in those ancient democracies where the individual was fully merged in the idea of the State. Since the Democracy of the United States came into being in the eighteenth century, the whole Continent of America has resolved itself into a bundle of Democracies, which are as a matter of fact quite a suitable form of government for all these peoples who have but a short history behind them. The experience of Brazil has proved that it is just as impossible to improvise a monarchy as an aristocracy, if the nation has no living monarchical tradition. An Emperor who was not lacking in personal bravery was dethroned by a contemptible little Revolution, because his dynasty had no roots in the country.

Europe, on the other hand, does possess an ancient history with monarchical tradition, therefore, if for no other reason, it affords less opportunity than America for the democratic form of State. It requires further a much more far-seeing policy than America at present has any need of, being, as she is, without any powerful neighbours, and consequently deserving of Washington's boast, that she is ignorant of national hatreds. Moreover the social contrasts of Europe are much sharper than those of the New World, therefore equality, that important basis of Democracy, is lacking. Lastly, our old Continent calls out for an active Government, which is also difficult to reconcile with Democracy. The European copies of this form of State, and their relatively long continuance in France,

are only to be explained by the total incapacity of the old dynasties to rule.

Let us now seek for a few examples from history to illustrate the nature of Democracies from single instances. Between Athens on the one side, and Switzerland and the United States upon the other, lies the whole gulf which separates modern from ancient life,—the aristocracy of the masses of antiquity from the real democracy of the new age. Without doubt the Hellenic idea found its noblest, truest embodiment in Attica, and not at all in the crude military State of Sparta. The Athenians possessed the one Spartan virtue of courage in equal measure, but in a more human and chivalrous guise. We have learned from our excavations on Hellenic soil that there was in very truth but one Athens. Her only possible rival in the artistic sphere was Olympia, and none of the monuments which have there been brought to light, with the possible exception of the Hermes and the Nike, can vie with those of Attica. Antiquity itself felt the intellectual and aesthetic supremacy of Athens so strongly that after Greece lay politically in ruins the alien races competed to preserve and cherish this one city. Attalus, King of Pergamon, added to her architecture, and again in much later times Herodus Atticus sought to enrich her crown of buildings in the new semi-Roman style. Through all vicissitudes this town shone forth as the jewel of the whole Greek civilization.

The Athenian State is unique in the world's history, and the prosperity of this loose-knit Democracy is all the more astounding because

of the immense difficulties which confronted it. Athens is but one league distant from the sea, and the soil of Attica was very unfruitful, bearing no valuable crop but the olive. Everything pointed to seeking fortune upon the sea; the rocky tongue of Munychia seemed formed by nature for a lighthouse tower, and its bay for a first-rate harbour. All this, however, men either could not or would not see, and it required the genius of Themistocles to bring home to the unwilling mind of the nation that the natural sphere of Athens lay upon the sea. For a long time they remained impervious to his argument. Those who have stood upon the historic soil, and seen the geographical conditions with their own eyes, realize when they hear of the restless activity and fickleness of the Athenians that there is another side to the question. It is no more than half an hour's drive from the Acropolis to the harbour; ancient Athens had been as good as destroyed in the Persian War; and when Themistocles carried his plan for a harbour it seemed natural to make it the chief centre, and leave the old Athens as its suburb. But the Demos refused to be separated from the temples their fathers had built, and from the Gorgon-slaying Athene of the Acropolis. Therefore the harbour was built a league away from the city, and the artifice of the Long Walls was tried to join the two together. Here we have the conservative touch of the "δῆμος μόναρκος" clinging fondly to ancient usages.

The physical conditions of the country were not the only difficulties with which the Athenian

Republic had to contend; it had the political disadvantage of having no natural allies such as Sparta found in the discontented aristocratic elements in every town in Greece. Sparta was the leading power in the Peloponnesus. Very different was the position held by Athens. She was indeed beloved in theory as the city of freedom, but in theory only, for in her rising star the rival Democracies saw a menace to themselves. This beautiful island world had indeed common commercial interests with Athens as against Sparta, but then all the trading centres on the islands were also her rivals, so that the Athenian Confederation was not nearly so strong as the Spartan alliance with the aristocratic factions. It is marvellous to see what great political aims were kept in view under such conditions, for Athens faced Sparta in the full consciousness that she stood champion for the principle of political independence.

For a time Athens steered a truly brilliant course through her extremely difficult foreign policy, owing her success not so much to her form of government as to the noble character of her people, which found its best development in governing itself. We cannot but admire the great heart, and the natural genius of an Athenian mob, which yet was able to feel sentiment for Greece as a whole.

Athens bled to death for the idea of a Greater Greece. Her vision of her City State transformed into a great Power could not be realized, because her confederates were not dependable, and because the state-craft of antiquity was not

capable of creating a Federal system, which can take no real shape while every citizen has a direct share in political life. The alliance of which Athens was the head was not even given a collective name, but was always spoken of as Athens and her confederates. It became in fact a hegemony of a very oppressive kind, for the confederates were compelled to carry out what the sovereign people upon the Acropolis decreed. This, coupled with the natural indiscipline of the other Greek races, and their impatience of any strong control, was more responsible for the tragic fall of Athens than was the democratic form of her government. When we understand this aright, her history is still inspiring for us to-day, for in spite of innumerable follies a strain of inspiring greatness runs through Athenian politics. The Spartans recognized her material and intellectual superiority, and resented it fiercely; their jealousy prompted their perfidious saying at the outbreak of the Peloponnesian War, that the time was come to free the other States from the Athenian yoke.

From the beginning the history of Athens pointed towards democratic developments. The note of mildness and humanity was sounded in the very origin of the City, which was not founded upon conquest like Sparta, but arose, as far as we can tell its dim beginnings, through a gradual influx of immigrants who sought their livelihood upon its hospitable shores. This is the reason why aristocratic forms struck no deep roots within it. It, too, began with a monarchy, but soon the uprise of the great families displaced

this form of government, which left no trace upon the Constitution, except in the title of one of the nine Archons. It was succeeded by an aristocratic domination, but the arrogance of the reigning families displayed itself first and foremost in the despoiling of the Demos, and led to the popular upheavals which took a democratic complexion under the Constitution of Solon. The influence of demagogues kept a tyranny in power for a little while longer, but finally, after the Tyrants had cut the heads off most of the nobles, appeared the Democracy proper, as Cleisthenes had reorganized it, and it at once assumed a logical shape. The centre of sovereignty was shifted more and more into the hands of the whole body of free citizens, until at length it lay directly and absolutely with the National Assembly.

This Democracy was formless in the highest degree. Its Civil Service was an example of the dangerous principle of divided responsibility. Even in Army leadership the supreme command was placed in the hands of more and more generals of equal status. The Command was divided among three, or even four individuals. For us this principle of Boards of Control is more incomprehensible than any other part of the whole system of the State. We can scarcely imagine how the Romans managed to govern through two Consuls at once, and we are quite unable to understand how Greek armies could ever have been led by three or four "Strategi." No doubt it usually happened that one of the four was so superior that in practice the other three

were subordinate to him. In the "ἐκκλησία" the Thousand were finally given direct participation in the sovereignty. It would seem impossible for a State whose government was so radically democratic ever to have had a great foreign policy. In theory the thing was so incredible that the Greek philosophers rejected it with contempt.

It is on this very point that we must beware of the professorial politician. Great as Aristotle was, he still appears in the guise of a learned schoolmaster in the newly discovered fragment of his work on the Athenian State. It was an ancient principle that political rights were granted on a basis of military service. As long as land forces only were employed, the right to vote was founded on service with the hoplites, and none but the well-to-do could enrol themselves among these heavy-armed troops. When Themistocles led the Athenians from land to maritime warfare the effect produced upon their history was analogous to the introduction of universal service into Prussia. The banks of rowers for the triremes had to be supplied from the lowest classes of the population, to whom, by inevitable necessity, the suffrage had likewise to be extended. To make this a reproach to Themistocles would have been as foolish as it was to blame Bismarck for introducing universal suffrage into the North-German Confederation. We know that this *non-plus-ultra* of political rights gave Bismarck the weapon he required to appease the great body of demagogues. The nation was absolutely out of harmony with his

German policy. The desire for German unity was indeed widespread, but its attainment by a war between Austria and Prussia was by no means the wish of the people. Therefore the founder of the policy of Union was absolutely compelled to grasp at these methods of despair.

Exactly similar was the position of Themistocles, the man who in all history has been the nearest intellectual parallel of Bismarck. There is a tragic touch about universal suffrage extended to all classes of the population, but it is not a subject for the censure of pedants. Circumstances were responsible for this radicalizing of political rights, and in this case the crudest forces of human nature were held in check by the broad foundations of slavery on which the Athenian State reposed. Another restraint was the traditional reverence with which the Attic Demos, for all its fickleness, continued to regard certain of its great ruling clan. The position which the two great tribes of the Philidae and the Alcmaeonidae owed to their descent from Ajax and Nestor was purely one of inheritance, for they had no formal precedence over other families in the State. But it was as if these two powerful dynasties handed down certain traditions from father to son, for they produced a line of born rulers, who persuaded the Demos into a great foreign policy, although of course it was liable to constant relapses, and required the repeated exercise of all the arts of oratory to knock it into the hard heads of the mob.

Human eloquence has never wielded so great, so demoniac an influence as in Athens. We

could not wish modern nations to be so much under the spell of the spoken word, for in us the substance is more vital than the form. We have to remember the almost super-refined sense of beauty in the Athenians, and imagine a susceptibility so great that a single blunder on the part of the orator would expose him to the mocking laughter of his audience. Our modern world can no longer realize such a capacity for aesthetic enjoyment, or such a joy in sacrifice upon the altar of beauty. Recollect the magnificent speech in which Demosthenes says, " Our City's task is to be the loveliest of any." Of course this intense susceptibility to eloquence on the part of the Athenian people created the grave danger that the Demos would be carried away into sudden decisions prompted by envy or revenge, and often and often did this actually occur. It was when a man like Pericles arose, a tyrant in the noblest sense, pre-eminent as statesman, general, and orator all in one, that the constitution of the Athenian State became effective, through the very looseness of its forms.

By the institution of ostracism as an emergency measure the Demos had provided itself with another weapon against men whose power might threaten danger to the State. This was, as a matter of fact, quite needful, and although no doubt it sometimes gave scope for envy against outstanding figures, and at times attacked men whose presence would have been a boon to the State, it is not possible to condemn it off-hand. If the people wished to proceed to the motion,

the vote was taken, and each citizen wrote upon his potsherd the name of the man whom he held to be dangerous. Thus it was not denunciation pure and simple, for it contained the element of risk, as every person who put the motion was naturally in a prominent position and ran the risk of the people's judgment being turned against himself.

The same considerations apply to other institutions of the State which at the first glance seem to us like madness. Since there is something aristocratic in the nature of all elections, it soon came to pass that the appointment to all great offices of State was made by lot. The illogicality of this method of election provided the very means of safeguard against the one-sided domination of a majority. There were two great parties, and it became the rule for both their lists of candidates to be submitted, and the lot was drawn among the names upon these lists. Thus it might happen that the actual party in power might be in a minority in certain administrative posts, and that the rule of the majority could not be recklessly taken advantage of.

Now, however, Democracy began to move towards its ultimate conclusion, with that uncanny logicality which is inherent in its nature. Equality was to be actual, and to this end the burdens of the State were laid with disproportionate heaviness upon the shoulders of the rich. When a fleet was in construction the rich were simply informed of the number of ships they were expected to build, while on the other hand

the lower classes had an allowance made them for their hours of labour, so that they might be able to attend the National Assembly.

Thus an attempt was made to equalize social conditions artificially, and to place rich and poor upon a level. The process went on *in dulce infinitum* until finally the mob were even given their "θεωρικά" or money for their seats in the theatre. This Demos had its sycophants, even as monarchs have their flatterers. Hand in hand with political decline went the decay of morals from the days of the sophists onwards. Euripides is a magnificent type of the period of the old Hellenic morality in its fall; he is its splendid fruit with the worm at its core. He stands for the purely personal morality, "what is then wrong, if to the doer it seems right?"

The final fate of this development could not be difficult to foresee, and the marvel is that the end was so long in coming. There were great men to stem for a little the inevitable tide, but at length it brought with it the era of the demagogue pure and simple. The opening days of Cleon's rule keep their significance for all time. They bear a very close analogy with modern times, for the Athenian Democracy was equipped with the same stock of phrases as we have heard used in our own day. Cleon had already used against Pericles that *pièce de résistance* of the demagogue's attack upon the statesman who knows power to be the essence of State—namely, the accusation that he placed force higher than law. Unfortunately he found a greater following than did Bismarck's foes in the progressive ranks,

for the people of Athens began to lend an ear to the counsels of sedition. Finally, when Cleon had the inexplicable piece of luck of a successful military campaign falling to his credit—how this came about Heaven only knows—his reputation was established, and the State fell more and more into the democratic groove. As Fate willed it, there then arose in Alcibiades the appearance of a genius, but unfortunately there was no reality, for he totally lacked the capacity for judgment. Talents he had, in a superabundance which drove him to try to make them shine in every direction with a brilliance which was turned far more towards illuminating his own personality than the matter in hand. Natures such as his rise easily to eminence on democratic soil. The insensate Sicilian Expedition prepared the way for the catastrophe of the Peloponnesian War, and Athens never recovered from the blow she then received. All the mighty eloquence with which Demosthenes smote into the soul of the nation now came too late. Yet, when all is said and done, Athens remains unique in the world, and her history will ever be rich in teaching, because it illustrates once more the relative worthlessness of all political forms.

In Florence, which was a pure Democracy, resting upon a non-slave basis, the Middle Ages produced a noteworthy aftermath of the culture of ancient Athens. Here the old ruling families of the City had been compelled at an early stage in its history to swallow their pride and become members of the guilds. To this day magnificent monuments of architecture bear witness to the

unforgettable period of the Florentine Democracy, which placed its people upon the apex of culture among the nations of the New Age. Unfortunately it bore within itself the seeds of a quick decay. Democracy was soon forced to yield to Tyranny, for a strong government was imperatively demanded to restrain the turbulence of the times, when one deed of blood followed upon another, and conscience was flung to all the winds of Heaven.

The Democracies of modern days stand in absolute antithesis, both to the rich culture of the Florentine Democracy and to the finely tempered popular aristocracy of Athens. In Athens we saw idealism exalted to an almost giddy height, while in Switzerland and the United States we find an energetic materialism on economic lines, combined with an indifference to the intangible possessions of intellectual life. "No Swiss without money" and "Time is money," such are the typical mottoes of these Republics of our own day.

The strength of Swiss life undoubtedly lies in its good practical efficiency. We must not speak without qualification of the commercialism of the Swiss, for this little country, whose inhabitants do not exceed those of the kingdom of Saxony in number, has produced two great branches of the Protestant tree. Nevertheless both Zwingli and Calvin became more international figures, and any civilizing influence which is to affect national character must bear a national stamp, and the ethnographical conditions of the country forbid the creation of any collective

national culture in Switzerland. Swiss Teutonism is only a tiny twig of the Teutonism whose proper home is in the German Empire, and Swiss Gallicism is likewise nothing but a feebler offshoot of the Gallicism of France. The marvel is that in spite of these unfavourable ethnographical conditions Switzerland has still managed to maintain a relatively high intellectual level. French Switzerland is the Protestant counterweight to France itself, just as German Switzerland is the Republican counterweight to monarchic Germany.

In spite of this it is, broadly speaking, true that the whole position of the Swiss State is more adapted to ensure a moderate share of fortune, and a certain measure of respectable comfort for industrious people than to produce the fine flower of intellectual culture, and the future will make this increasingly apparent. The highest aims of policy are either shut off altogether, or made difficult of attainment, and above all a foreign policy on the great scale is altogether impossible. Hence the decree of neutrality, which is in fact self-mutilation for a State. It is true that it is no longer unconditionally recognized by treaty, but it is tacitly implied in every war, for were it to be violated the foundations upon which the Swiss State exists would crumble. All its institutions are rooted in its neutrality, above all the greatest limitation of its activity in a small and inexpensive Army.

Old Switzerland used to be aristocratic through and through. There were certain Democracies around the Lake of Lucerne where as a matter of

fact there was no government at all, but even these had those aristocratic tendencies which had been developed in the large Cantons in the plain of Switzerland, and individual leading families of peasant stock were the actual rulers of their Cantons. The classifications of society in old Switzerland were likewise purely aristocratic. There were immigrants, whose only political rights were to protection, but there were also subjects who simply owed allegiance either to the Confederation as a whole or to one or more Cantons. The French Revolution was what first put a radical complexion upon all these conditions, and we can trace during that period in Switzerland a decay of the old aristocratic forms similar to what took place simultaneously in Venice and the Netherlands. The internal conditions of existence gradually disappeared, and the old Constitution was tossed light-heartedly aside. Then came the year 1798 with its attempt at Helvetian unification. In 1803 Napoleon's Act of Mediation brought into being a Constitution which realized the idea of equality for every Canton. A Confederation was formed consisting of twenty-two Cantons, all with equal rights. A brief reaction followed, but the great principle of equality endured.

The succeeding period saw the beginning of disputes in the various Cantons regarding political forms. It is extraordinary how the old families had decayed or disappeared in so short a time, for the groundwork of a really aristocratic government was no longer forthcoming. The struggle for the sole supremacy of the Democracy

began in 1815, and the first great blow for it was struck in 1830 when several of the larger Cantons introduced a purely democratic Constitution. The Catholic Cantons were vanquished in the "Sonderbund" war, and in 1848 a new Constitution was proclaimed for the whole Confederation. Thenceforward none of its members might have other than a democratic Constitution, be it either direct or representative in form. The Federal State is strongly centralized, and therefore the political forms of its constituent elements must be approximately the same. A new radical movement began in the middle of the 'sixties, which aimed at direct government by the people. Experience had shown that the National Assembly, or Grand Council, had not always given full expression to the will of the nation itself, and that it had made alterations in the Constitution which were not properly in accord with the wishes of the sovereign people. Thus arose a movement, demagogic in form, but justifiable in fact, which aimed at combining direct government by the people with the representative system. This vision has become a reality in most of the Swiss States to-day. The nation has the right of veto upon all constitutional changes, which have to be laid before it for decision by referendum. As a matter of fact this arrangement has had very different results from what were expected of it. The masses show their suspicion of all reforms which cost money, and all which require a certain amount of education to understand, and to this must be added the mistrust of the Government which is

one of the features of Democracy. It was therefore quite erroneous to expect the referendum always to work in a radical direction, for in many cases its influence has been strongly reactionary, as for example with the vaccination legislation. The educated members of the central authority of the Confederation in Berne were unanimous as to the need for vaccination laws on the German pattern, but the proposal raised an absolute storm throughout the country. The Bull of Uri began to bellow, and in the Grison compulsory vaccination was rejected amid acclamation from the sovereign people, and no one could understand how "the Bismarck" of Berne could propose such coercion of the free citizens. Thus the law was never passed, and the incident has been the cause why the machinery of universal referendum is now so seldom set in motion. For the rest, the Grand Council transacts current business through a few officials, who are simply and solely a Committee; and administration is everywhere carried on by means of these Boards, and not through individuals.

The whole of this system originates in innumerable local factions, and in a municipal feeling more powerful than any foreigner can ever hope to understand. So loose a form of Democracy may answer tolerably well in these petty conditions, but it proves a great obstacle to the really important and civilizing enterprises of the State. Army administration is starved by it, and as a result foreign policy is hampered, and the whole nation is deprived of military education and all its incalculable moral benefits. In its soldiers

of fortune old Switzerland possessed an excellent antidote to the dangers of neutrality, although its methods were no doubt open to the attacks of doctrinairism, and we can understand the fierce objection made to them by Zwingli, who had himself been an army-pastor, and who regarded the State solely from the moral point of view, for there is no doubt that these mercenaries brought many vices back from their foreign service into the simple home-land. Nevertheless, from the political standpoint these troops were a benefit to the Swiss State. It gained a magnificently trained body of men in all the innumerable officers who had been in the Papal, the Imperial, or the Bourbon service, and the military spirit was strengthened throughout the nation, so that in those days the other countries of Europe thought twice before they meddled with Switzerland.

To-day no trace of this remains, and it is hard to say whether the militia system has really succeeded in creating a widespread military efficiency. No doubt physical efficiency is still held in high esteem, but on the other hand we all know that Swiss manœuvres have some very comic characteristics. I once walked in the rain over the Pragel Pass, along Suvaroff's old road, between Schwyz and Glarus. The weather was not exactly pleasant, still for an active walker it was perfectly endurable. When we reached Glarus we saw an Army order posted as a public placard. It commanded a review on the following Sunday, but it was expressly stated that it was to be only weather permitting. At the

present day such a proviso gives food for reflection, but still, in the last war, during the campaign which ended in Bourbaki's defeat, the Swiss troops did well, and showed good discipline. Old tradition seems still operative in a thoroughly warlike people, who were once considered the best soldiers in the world.

There is no doubt that the administration of justice is much hampered in Switzerland by the democratic Constitution. The election of judges is in itself an obstacle, and we must add to it the lack of a national jurisprudence. There is no Swiss law, but in Zürich and Berne German jurisprudence is taught with certain adaptations to Swiss conditions, and in Neufchâtel, Geneva, and Lausanne it is French. There are only a few ordinances of the Confederation in the nature of Constitutional law, and applicable to the whole country. Therefore no really national jurisprudence can exist, and the intellectual level of the body of judges is the lower in consequence.

Not in these directions only, but also in its more directly civilizing mission, is the State obliged to limit its activity on account of its political forms, for the Democracy has no taste for education beyond the elementary and the technical. The aristocratic Switzerland of Calvin and Zwingli stood on a vastly higher level of culture. Who could have believed that the country as we see it to-day could have brought forth so rich a harvest of the intellect. Now we see money catching the nation in its dismal grip, and the great railway companies beginning

a monopoly of the most oppressive kind. We mark the early stages of a corruption which will have to grow much greater still before the sovereign people begin to feel it and to see it. Yet, despite it all, this little State must be regarded as a necessity for Europe; it is an enrichment both of French and German life, and we cannot by any means wish to see the suppression either of this republican development of the German spirit, or of this Protestant offshoot of French civilization. Nevertheless it is clear that its prevailing conditions could never be adopted by nations which form a single whole.

Democracy has never played a great part in the life of European States, and in Germany it has never had the upper hand except in a few of the Imperial Cities. It is in the young Colonial States of America that it has found its second bloom. These American Republics are essentially different from each other, according to the nature of their inhabitants in north and south. North America is dominated by dwellers of Teutonic stock, while Creoles and Spaniards rule the southern continent, and here the word Liberty carries a different meaning to that which it bears in the north. In the United States each man's desire is elbow-room for himself, but in the south he wishes to impose his will on other people. Hence the tranquil conditions which we see prevailing in the north, and the unceasing series of revolutions in South America, where republican government is merely a makeshift devised to supply the lack of a native dynasty.

Great as the North American Republic is,

it still does not belie the universal rule that democratic government is only suited for little States, and in the last resort the Union is only a Confederation of many thousands of small Republics. In forming a judgment upon them we must always remember that in spite of all democratizing of political forms, certain institutions belonging to their previous monarchical history have still survived. We can trace its traditions to this day in the Constitution of the State, even as we can perceive how the refugee-spirit of the political malcontents, who saw the State more as an enemy than as a protector, is still extant, and how puritan protestantism, with its defiant note of independence, has influenced even the forms of the Catholic Church in America. The monarchic institution of government through individual officials was not discarded. Even as a President was placed over the whole, so there was a Governor over each State, whose position was of course only that of an executive official under the orders of the Democracy. The two-chamber system is another monarchical institution which has survived in spite of the difficulty of constructing a Senate differing in nature from the House of Representatives in a State whose democratic complexion forbade recognition of class distinctions. A few outward divergences were made the pretext for seizing the advantages which accrue from the counterbalancing influences of the two-chamber system.

These things are inheritances from the old monarchical tradition, but after setting them

aside, the nature of this State is marvellously adapted to the conditions of a growing and changing society. Its institutions are so elastic that they seem merely to indicate the direction that the development should follow which takes place so freely within the cadres they provide. At its origin the Union comprised thirteen States, and the increase of its present number of thirty-nine has not required any alteration of the Constitution. Moreover, this same Union contains States like Rhode Island, petty in the strictest sense of the word, for it is no bigger than Brunswick, and others such as Texas, which is fully as large as Germany. City-States and States cut from the primeval forest all come under the same Constitution. The State of New York has more inhabitants than the whole of Sweden, while Nevada contains only about as many as Halle. The Americans themselves do not exactly know the number of their population at the present time. In this instance the sketchy construction which is characteristic of Democracies and so distasteful to the instinct of the historian has great advantages. It is all as little thought out as it is possible to be, but its simplicity is the very reason why it can be so rapidly improvised wherever necessity requires, and there is something imposing in the spectacle of this Union expanding as if by a process of Nature itself. Any territory which has gathered a population of about 100,000 has the right to constitute itself a State and to ask for admittance into the Union. This is accomplished in the simplest possible manner—the backwoodsmen, considering that the proper

moment has arrived, summon an Assembly, elect a provisional government, send a deputation to Washington, and the new State comes into existence in the twinkling of an eye.

The life-force of the Union is very really centred in the vision of an immeasurable future. Americans forget that the earth is round, that the eternal call of the West, which all their poets sing of, will some day cease to sound, and that the problem of their future should far rather be how to create something upon their soil, which offers so many material facilities for it, which can be called civilization as the Old World understands the word. In spite of their great material progress the Americans have hitherto failed to contribute anything to the great ideal possessions of the human race, and this failure is the more striking in comparison with their colossal productivity in all technical spheres. The mediocrity of their literature stands in sharp contrast to their wonderful inventive capacity. The number of their outstanding poets could scarcely be smaller for a wealthy country possessing a developed language throughout a century of unruffled peace.

American life will bear the same stamp for a long time to come, for all the signs of the times point to further decades in which the material exploitation of Nature will still be the chief pre-occupation of the people. Washington and his friends, the Fathers of the Union, trusted that Art and Science might renew their glorious youth in this young world of freedom, but hitherto their noble hopes have been nothing more than a

dream. Washington reiterated his expectation again and again, but he was a true son of the unhistorical eighteenth century, and never realized how deeply a civilization must strike its roots into a country's soil before it will bring forth such fruits. The obstacle does not lie in the Democracy, but rather, as we have already seen, in the fact that America is a colonial country. Colonies do not attain, even remotely, to the level of the mother-land's civilization, for a people which has had no youth in the proper sense will never show creative aesthetic genius unless it remains in direct connexion with the cradle of its race.

From the political conditions of America at the stage they have already reached, we Germans can draw no lesson for ourselves, and the excellent book which our compatriot Holst has written about the Union leaves us with the impression that further study will profit nothing. As wealth increases, and the inequalities within this Democracy grow with it, the deceits and dissension in the party life which is now thoroughly corrupt must come ever more into prominence. What is the real meaning in the party cleavages in North America to-day? Real divisions existed before the Civil War, when the question of Emancipation was a binding or a sundering force, but where is now the bond between the parties who confront each other sometimes as Federalists and Republicans, and then again as Republicans and Democrats? These titles themselves are absolutely meaningless, and on both sides we see nothing but ambitious men struggling to

get to the top for the sake of the spoil. History has lost its meaning, and for the student of human nature it has resolved itself into a series of mere struggles for power, and since recent years have given money so tremendous an influence, it is natural that political weapons should be used to further dirty money-grubbing interests.

For the rest, however, the foundations for democratic institutions are so well prepared in America that it is impossible to imagine how any other form of State could exist there. Once again we have to recognize that history cannot sum up the value of Democracy by emphasizing that it pursues an unattainable goal. The Florentine Democracy of the Cinque Cento rendered unforgettable service to mankind, and in the economic sphere at all events America stands unsurpassed to-day.

XXI

STATE CONFEDERATIONS AND FEDERATED STATES

Since the qualities of Power, Unity, and Sovereignty compose the essence of the State, it is evident that all associations of States are artificial productions, because they limit the sovereignty of the individual State in one way or another, and for this reason history does not record very many of them. I need only refer briefly in this lecture to the peculiar associations of different States under one Head, which go by the name of Personal Union and Real Union. The former are usually defined as States whose bond of union is represented by an individual, and who have nothing in common but their ruler and their foe. This definition, however, does not cover every case. The union may be as firm as that which once subsisted between Austria and the Crown of Stephen, or it may be as loose as the bond between England and Hanover, in which Hanover concluded her independent treaties, and the law did not even provide that the enemy of the one should be the enemy also of the other. No doubt England did invariably draw Hanover into her own colonial wars, because she found the

Hanoverian forces such a priceless treasure for her military power.

The association between Prussia and Neufchâtel affords us, side by side with this, an insignificant example of a Personal Union. In this case the only common bond was in fact the person of the ruler. Prussia only appointed the Governor, and the administration lay absolutely in the hands of a Swiss Council of State; and this Swiss Canton had nothing whatever to do with the Prussian State. The Neufchâtel Musketeers, as they were called, the forerunners of our Musketeers of the Guard, were recruited in Switzerland, just as were the troops of the Pope and the King of Naples; legally they stood to our Crown in the same relation as all such foreign troops. During the Seven Years' War many of the Neufchâtel nobility entered the French Army in accordance with ancient custom, and a great number were taken prisoner at Rossbach and other battles; by the orders of Frederick the Great they were all treated with the honour due to prisoners of war. There was no question of their having in any way violated their duty as subjects, for the Principality had no concern with the King of Prussia's wars.

Here we have the loosest imaginable form of Personal Union, but one which may lead to the gravest complications. The two States whose union is so purely formal must each go their own way, especially if they are widely separated geographically into the bargain, and one side is bound to lose its fellow-feeling for the other. Prussia's indifference to the fate of this lovely

Alpine province is an ugly page of her history. All the well-born Swiss of the place were touchingly royalist in their sympathies, and clung with enthusiasm to the Prussian Crown, but Prussia allowed a squalid popular rising to wrest the little country from her grasp, without making a single serious effort to win it back. Neufchâtel would mean a great deal to us to-day, for its possession would give us a standing in the Swiss Confederation. Here was a case of personal union turning to our disadvantage from its very flimsiness.

A quite peculiar form of Personal Union exists in our own day between Norway and Sweden. Firstly, the two are under the same dynasty for all time, which was not the case with England and Hanover, which had a different law of inheritance, while Norway and Sweden are always to be ruled by the same King. They have certain other institutions also in common, and are associated in their foreign policy, under an arrangement whereby Sweden alone possesses a Minister for Foreign Affairs. It follows naturally that if the case arose they must also have their enemies in common. For the rest they each exercise an extremely wide independence, and there is scarcely any trace of fellow-feeling between the two. The whole family of Germanic races scarcely offers any greater contrast than exists between these two nations, whose coinage proclaims them to be sisters. A charming sisterhood in sooth! On the one hand we see Sweden, aristocratic in the best sense of the word, with all the unique charm of her social customs, and on

the other stands Norway, with all her intolerable churlishness, presenting a boorish version of English characteristics.

Here we have two nations welded together, whose nature, history, and speech are all totally divergent. There is nothing natural about the union beyond mere geographical position.

The relationships on the Scandinavian Peninsula are analogous to those of Belgium and Holland after 1815. Nothing could have looked better upon the map than the political union of these two countries, and yet it was intolerable in practice. It is the same to-day with Norway and Sweden. Norway is democratizing, in the most perverse manner possible, a peasant population, in which every churl is a churl indeed, each man as coarse and unlovely as his neighbour, and on the basis of this rough peasantry is arising a city life in its extremest development. The ground is prepared for a corrupt and morbid literature, and it is little wonder that minds like Ibsen's thrive upon it. Now look at Sweden with her recollections of days gone by when she was a great Power; look at her soldiery, sturdy still, and compare them with the ridiculous figures strutting about Christiania in their Bersaglieri head-dresses, and calling themselves soldiers. The sharpness of the contrast is patent everywhere. Nevertheless we do find a commercial capacity in Norway which compels our admiration, and her merchant fleet is bigger than ours in Germany. Of course the coast-line is such that communication between places is only possible by sea. Sweden's commerce

is small in comparison. The modern Norwegian peasant is possessed by the deep democratic hatred of his class against Sweden, and it seems as though an attempt to separate the two countries will soon be made.

These forms of State association have less importance for us than Federations in the proper sense. We have already seen how the whole character of the States of antiquity made them incapable of tolerating an alien Power anywhere near them, and how ancient history consequently contains few instances of Confederations, and then usually in the form of Empires. They are usually transition stages in the complete subjugation of several States beneath one leading Power, which is in process of devouring them entirely, for the State of antiquity desired above all things to conquer and to rule, and not to acquire associates. Thus the great Athenian Confederation became nothing more than the subjugation of the island world under the leading State, which demanded nothing but soldiers, ships, and money of the confederates, who were justly called *σύμμαχοι*. Athens finally came to grief over her policy of a Greater Greece, while the Latin Confederation, on the other hand, only prepared the way for the complete incorporation of the Latin races within the leading State of Rome. It was only at the end of Grecian history, when the living thought which guided Hellenic policy had begun to weaken, that the instinct of self-preservation induced the Hellenes to form two alliances which had a certain amount of strength; one was the Aetolian Alliance, which

has less interest for us on account of its half-barbarian character, and the other was the Achaian Confederation. This held the States of the Peloponnesus together for a while, under the necessity arising from the terrible pressure of Macedonia and of Rome, but no one will seek for the bloom of Greek life in these conditions. It shows us clearly how impossible a free Constitution of allied States was for the Ancients who had not yet developed the idea of representation. This lack was decisive against any federate life in antiquity.

The Middle Ages, on the other hand, were a very arena for Confederations. Sheer instinct of self-maintenance called them into being. When we examine the subject more closely we are astonished to find that the Swiss Confederation is the only one of all the multitude which has endured. The reason is that all the others were on a class basis; towns joined hands with towns, as in the Hansa, the Swabian, and the Rhenish City Leagues, and excluded the peasants and the nobles. Sometimes the latter joined in defence of their own interests, as in the "Löwenbund," or else the peasants made alliances among themselves; but always it was one class trying to secure itself against others. We know, however, that the very essence of the State is universality, and superiority to the πλεονεξία of classes. It is for this reason that a purely class corporation can never become a State, as we see in the striking example of the Hansa League. This alliance had become immensely powerful, and yet it could as little stand against the increase of territorial

patriotism as could the Lombard City League, which once seemed ready to subjugate the whole Italian Peninsula. The little Swiss Confederation was territorial from its very outset, it embraced both town and country, and was therefore capable of developing into a State. In the transition period between mediaeval and modern history we find one Confederation in the grand style, bearing the stamp of both periods, namely the Netherlands Republic, and finally on the threshold of quite modern times the great Federation of the North American States arose. Here it quickly became evident that the old forms of confederation no longer sufficed for modern political life, and thus America became the bridge between State Confederations and Federated States.

A Confederation of States, as we have seen it in Switzerland up to 1848, in the Republic of the United Netherlands, and in the North American Union from 1778 to 1787, is recognized by international law as an association of sovereign States, who have bound themselves together, without resigning their independence, to further certain common ends, the chief of which is to provide for defence against a foreign enemy by means of contributions levied from all members of the association. Since all these retain their sovereignty the central authority must be divided, both legally and actually, among the individual members of the Confederation, and this has always been done. A Parliament or Federal Diet assembles, a Congress of ambassadors, who express no will of their own, but are merely the

mouthpieces of their Governments, whose desires they have of course helped to frame.

A Confederation of this kind is distinguished from an international alliance pure and simple chiefly by its long continuance. It is devised to last for ever in the human sense of the word, and is founded either on a living consciousness of national comradeship, or upon common historical traditions. The allied States feel their need of each other in war, and they express it in their political forms. Thus arose Switzerland, which serves us as a general type of confederate Federations. Its members were pledged not only to mutual support against the foreign enemy, but also to bear each other's burdens at home by consent or arbitration. This may lead on to a further series of established institutions, but the sovereignty of each individual State is guaranteed through them all. Consequently the members of a Confederation exercise their natural *liberum veto*. No sovereign can be called on to obey, and therefore each individual must be given the right to object to the decision of the majority. This was the case in Switzerland, in the Dutch Republic, and in the German Confederation also. Unanimity was required for any modification of the Act of Union, and for all the so-called organic decrees which engaged the associates to any fresh undertaking, and the practical result of this was generally to prevent the Federal Diet from arriving at any decision on important matters, and to make it ever and always a Council of Incompetence.

It is easy to see that the inner flaw in the

system was in giving equal treatment where equality was non-existent, for all the Confederates were upon the same footing, except upon certain points of precedence. This enabled the weaker members to take a most unreasonable advantage. It was a citizen of the Dutch State, Spinoza himself, who once pronounced that any man who demanded equality among unequals was asking for something against reason. In the German Confederation Diet, Austria, Prussia, Bavaria, Wurtemberg, and Hanover could theoretically be overridden by the smaller States. In practice the thing was a sheer impossibility, and the big States were forced to exercise their power behind the scenes in order to secure support in the Diet.

Thus within a Confederation a hegemony may be formed, either in practice or in forms of law, in order to give a definite direction to the confusion of so many sovereign wills. This happened in the Netherlands Republic. No form of Constitution could have been looser than that which bound this Confederation together, for, as we know, the principle of the *liberum veto* applied legally not only to the Estates General of the Seven Provinces, but also to the Provincial Estates from which these received their commission. In theory these conditions would seem almost unworkable, but they were made possible in practice by two strongly centralizing forces within the Confederation. Holland alone possessed two-thirds of the total population of the Seven Provinces, and about seven-eighths of the national wealth, and the centre of gravity

of the whole Union lay in her and her great cities, Amsterdam, Harlem, Leyden, and the Hague. This is the reason why in colloquial speech the whole Republic of the Netherlands went by the name of this one Province, which seemed identical with the whole. The maritime interests which concerned Holland and Zealand in particular soon became far more important than the home politics of the little inland Provinces.

"Hoch von Mut, klein von Gut, ein Schwert in der Hand, das ist das Wappen von Gelderland" ("Courage and pride, nothing beside, but a sword in the hand, these are the arms of Guelderland"), as the old saw truly runs, but this little Guelderland was indeed a pigmy beside the world-power of Holland. The next step was so to organize the outward forms of the government of the Republic that the will of Holland should usually prevail. The States General held their sittings at the Hague in the same building (the Binnenhof) as the Provincial Estates of Holland. If any important question arose, the Provincial Estates assembled to discuss the proposals which were to be laid before the States General, and their decision was usually "taken over" by the other States as the phrase ran.

In this way the actual preponderance of Holland introduced a certain strength of unity into the *liberum veto*. The living link between the leading Province and the other members of the Union was supplied by the remarkable office of Grand Pensioner of Holland, which served as a model for the institution of the Imperial

Chancellor in our own country. In this connexion we must remember that Bismarck when a young man had formed a friendship with Motley, the gifted American historian, who had written a book upon the Dutch Republic in which Bismarck had studied the theory of Federalism. In the Netherlands the connexion between the first official of the leading State and the most powerful official of the Union had been very carefully thought out. Although it created the hegemony of the Dutch Republic all outward indications of the fact were studiously avoided; the Grand Pensioner sat unbonneted at the lower end of the table round which the high and mighty members of the States General debated as sovereigns with covered heads, nor had he even a vote in their discussions. Yet it was he who directed the commerce of the Union, he was Minister for Foreign Affairs, and all negotiations with other nations were carried on through him; he was in fact the ruler, upon the principle that the responsible agent is so to be regarded.

A second centripetal element entered into this hegemony of a single Province in the shape of that line of leaders of the House of Orange which stood for a democratic-monarchical power as well as for an active home policy, and always worked ultimately towards promoting a firm centralization, although it was often in conflict with the Republic. Throughout the eighty years of the War of Liberation its princes were always the leaders of the Army, and in the continual wars of later times they still held the Union and the Army together.

Thus it came about that the centrifugal forces within the Seven Provinces were limited by two institutions whose nature was nowhere defined on paper; moreover, there was no shrinking from the use of anarchical weapons against the *liberum veto* of the Provincial Estates. Threats were sometimes employed, or else a Delegation of Notables, as it was called, made up of Stadtholders, or other influential members of the States General, was despatched to the recalcitrant Provinces of the minority. This embassage would set forth to soften the hard hearts of the men of Guelderland or Friesland, generally by filling their pockets.

Switzerland found other ways out of the difficulty, and a study of them is as instructive as the rest of her former conditions are for the history of Confederations in general. If a unanimous decision was not forthcoming, those Cantons who were in agreement with each other could form a separate Union; these are the old rules of the Swiss Confederation. They then carried for themselves the measure which had failed to win the approval of the whole Confederation, in the hope that the others would in time follow their example. This expedient is thoroughly characteristic of Confederations, but also fundamentally anarchical. It is simply a makeshift system which may be said to work so long as it does not break down. Sometimes the mere instinct of self-preservation turns into a blessing in an anarchy like this, and moral considerations also may knit a Confederation so firmly together that the legal weaknesses in its organization are

somewhat mitigated. This is the secret of the long continuance of Confederated Switzerland; a moral bond of an absolutely personal kind held every individual Swiss fast to the rest of the nation. Again and again has strife between two Cantons been appeased by a timely reminder of their ancient brotherhood and the sacred oath which all alike had sworn.

We find various forms of memberships existing in the Netherlands Confederation, and still more in Switzerland. To the Seven Provinces was added the neighbouring territory of Drenthe, which had a right to protection, but no vote in the Assembly. Besides this there was yet a third way of belonging to the Confederation, as shown by the northern parts of Flanders and Brabant, which were conquered during the Spanish War, and held by the Seven Provinces as State-Flanders and State-Brabant. These territories reverted to Catholicism, and were consequently excluded, both by the Constitution of the Republic and the colossal prejudice of the Dutch nation, from receiving equal rights. They became subject to the United Provinces and were taxed on their behalf by decree of the States General.

Thus we find a confederation of States existing in the Netherlands in a threefold form. The same phenomenon, only more complicated and more developed, confronts us in ancient Switzerland. There the original Cantons were, as we have seen, aristocratic in their actual conditions; in Zurich, Berne, and Bâle the Plain of Switzerland also possessed Constitutions with the same ten-

dency, and the transition to a pure democracy was not made until the nineteenth century, after the Revolution of 1830. The Confederation was organized to harmonize with this former aristocratic character, and its laws were framed with all the variety and recognized distinctions which an aristocratic society demands. The Confederation proper was made up of thirteen districts. Of these the original eight had certain rights of precedence over the more newly joined members, but, upon the whole, all these thirteen were on an equality. Below them, with the inferior rights of Protectorates, stood the neighbouring territories which were only raised to the dignity of Cantons by the Helvetian Republic of 1798 and the Act of Mediation of 1803. Mülhausen in Sundgau had formerly been one of them, as well as the Swabian Rottweil, up to the time of the Thirty Years' War. Beneath them again came the ordinary bailiwicks (*Vogteien*), as much the spoil of the sword as were the subject territories of the Netherlands, being the conquest either of the whole Confederation or of one or more Cantons. They were administered through Land Commissioners (*Land Vögte*), and in them the will of their possessor reigned supreme.

Johannes Müller, who has idealized the history of Switzerland in most unpardonable fashion, nevertheless admits that subjects have never been so enslaved in any part of monarchical Europe as in the Swiss bailiwick. The Ticino was in those days one of the original Cantons; to this day the standard with the three Castles of Uri, Schwyz, and Unterwald, which were held

by the garrisons of the master, floats over Bellinzona. The ill-treatment by Berne of the beautiful Pays de Vaud is still more a matter of common knowledge, for in that district the deadly hatred of the Bernese curs has become absolutely traditional. Even now, although the Revolutions already referred to have long since made the Pays de Vaud a Canton with equal rights to the others, the antagonism is so strong that Berne and Vaud scarcely ever vote on the same side. The domains which are now the Cantons of Aargau and Thurgau used also to be subject territories.

Here then we again find the threefold form of membership, which is in itself enough to explain the slow and cumbersome movement of the whole national machinery. The government of Switzerland under that system would have been impossible if Berne and her great bailiwicks had not had so strong a preponderance. In the seventeenth century she ruled 235 square miles, and the remaining Cantons only 225. As most of the bailiwicks were in her hands as well she wielded a power which came very near being a hegemony to say the least of it. Zwingli, who had something of the kind in his mind for the larger Cantons, called Bern and Zürich the two oxen who pulled the waggon along.

The distinctive feature in the relations between the Nation and the State in a Confederation is that the former are not directly subject to the central authority, or, in other words, the central authority has no power to lay down the law. A Confederate Diet can pass decrees, but

they can only be given legal force by the individual States amongst their own subjects. Thus did matters stand with the German Confederation. The nation as a whole was mediatized and stood in no direct relationship with its central authority; nay, it had not even the right to acknowledge the supremacy of that authority, for according to the Constitution there were no Germans, only Prussians, Bavarians, Schwartzburg-Sonderhausians, and so forth, and none of these had any obligations towards the Confederate Diet unless it pleased their own rulers to ratify its decrees within their own territories. As a rule this was only done in the case of the political laws against demagogues, and in many States of the Confederation years passed without any of the edicts of the Diet being proclaimed as the law of the land.

The difficulty, nay, the impossibility of carrying out any kind of consistent foreign policy under such conditions is evident, and the history of the North American Confederation affords us an example, if one were needed. These colonies had become dependent subject provinces; they summoned a Congress which declared a rupture with the mother-country. This was not accomplished by the thirteen Colonies as such, but by the Congress. The nation was immature, and was united only by the Congress, so that the whole existed before the parts. Then followed the War of Independence with its mostly mythical legends of marvellous self-sacrifice and heroic deeds on the part of the Americans. Calm historical research reveals only a very small number of really outstanding men, Washington

and his own immediate circle, who roused the nation, which was for ever relapsing into its Separatist grooves, to fresh united effort. During the course of the war the thirteen colonies simply usurped for themselves a sovereignty which they had never previously possessed, and to which they had no claim. As a result, a Confederation of sovereign States organized itself, and upon it followed the most disgraceful period of American history, so contemptible that a short decade was enough to bring the nation to its senses. Foreign policy was absolutely in abeyance. Washington's correspondence brings home to us the misery of the time. After the Peace, one of the English Ministers asked him: "How is it possible to make treaties with you? You are one nation to-day, but to-morrow you may be thirteen." With the exception of Prussia, who remained true to an old friendship, no State would contract any agreements with this Confederation. Credit finally sank so low that a pair of boots cost 400 dollars, and conditions had arisen which an industrial nation could not possibly endure.

Our German Confederation was equally lacking in any kind of foreign policy. Foreign Ambassadors in Frankfort of course there were, to add by their intrigues to the mad confusions of German politics, but the Confederation itself only once sent the Freiherr von Beust on a mission to a foreign Court. He was despatched to London in 1864 to do a bit of diplomatic jugglery, and put a spoke in the wheel of victorious Prussia. Further comment is superfluous.

All Confederations known to history, not ex-

cepting those in the Netherlands and Switzerland, have shown themselves incapable of permanently fulfilling the great civilizing tasks. Our own was short-lived, and the sixty years of its existence is one of the darkest pages in our history. It is the only Confederation of Monarchies which the world has ever seen, and it reminds us of the sick horse whose every limb provided a different disease for the budding veterinary surgeon to study. The North American Confederation did not last ten years, and the Great Age of the Republic of the United Netherlands was not a long one. In this latter case the centripetal tendencies were, as a matter of fact, very strong, and the State developed on to monarchical lines, which was a decided advance, as far as form goes, yet in spite of it Holland has dwindled in size and importance, because the essence of power does not lie in forms. The Swiss Confederation lasted much longer, but here too we find stagnation setting in with the eighteenth century, and after it there arose, after the pattern of North America, a new and firmer kind of bond, namely the Federal State.

Many theorists have tried to prove that the difference between a Confederation of States and a Federal State lies in the scope and power of the central authority. A short examination shows us that we must seek elsewhere for the essence of the contrast.

The nerveless Government of the German Confederation had wider powers in many directions than the modern German Empire, for it meddled in many territorial affairs which our Empire

leaves to be settled by the discretion of its members. It is not in this therefore that we need seek for the fundamental distinction between the two forms of federation, nor yet in the fact that in a Confederation the central authority leaves the individual States to give effect to its decrees, whereas in a Federal State it always carries them out directly through the medium of its own servants.

This theory, fallacious as we shall presently see, had its origin in America. When the heavy years of the war with England had brought the Union of the thirteen sovereign States under the banner of the stars and stripes to such a pass that they could not even liquidate their war loan from France and Holland, and their prestige was wholly gone, then the leading patriots took heart and called the Congress of Philadelphia, which, sitting behind closed doors, took the course which had become imperative, and destroyed the sovereignty of the member States. For this was what it came to in practice, although in theory American statesmen were not quite clear about the issue. The action which they took was prompted by that practical genius which has always characterized the Anglo-Saxon nations. Alexander Hamilton, the greatest American statesman of that date, started a periodical, *The Federalist*, with the primary object of persuading the sovereign people of New York into agreement. This diplomatic intention suffices in itself to show that dealings were not quite above board, but we must also allow for a confusion of theory which the whole age shared, which concerned

the nature of political power, and a belief that power should be divided. This led to the Federal theory which held that the sovereign members should remain sovereign while surrendering a portion of their sovereignty to the Union, so that certain parts of the political whole, the army, the taxes, the posts, and the coinage, should be cut out of the functions of the individual States. Certain spheres of activity were to be given over entirely to the Union, certain others to the States, and, properly speaking, both States and Union were to be equally sovereign.

Thus ran the new doctrine. It was of immense practical benefit, because it gained the assent of the people of New York by glossing over the real facts of the case. The Swiss believed in it also, and in Germany all teachers of constitutional law were set upon the adoption of this doctrine of Federalism, if only to avoid having to tell the German princes openly that we had the kind intention of destroying their sovereignty and dealing another blow at the work of our deadly enemy Napoleon. No one dared to proclaim this, so they tried to take refuge behind the American theory of a division of power. Closer reflection reveals the inner flaw in the notion of a divided sovereignty, and shows that it is a contradiction in terms to speak of an over-highest and an under-highest authority. Moreover, when we apply an unprejudiced judgment to the letter and the spirit of the new Constitution of the United States, as it was first passed and as it exists unto this day, we can no longer doubt who is really sovereign; it is the people of the

United States collectively. The nation wields the power, and the members of the Union have only to obey. This becomes still plainer when we consider how that fair division of political functions which theory prescribed is both impossible and unnecessary in a Federal State. The American Congress can please itself whether it will have its decrees executed by its own officials or by those of the individual States. If Switzerland wishes to construct a mountain road she will either do so herself in the name of the Confederation, or require a particular Canton to do it in accordance with plans given.

Thus here, too, it is not division but unity of the supreme authority which appears. Of course the conception of sovereignty is elastic, like all political conceptions which belong to the sphere of Will, but we have already seen how it must have a firm centre. There must be an ultimate criterion by which to discover the essence of sovereignty. Its fixed and inalienable property, without which no State can call itself a State, is the right of arms, and the power to determine for itself the scope of its own supreme authority. The very nature of the State is its ability to impose its will by physical force. If it can no longer claim the right to wage war, and allows itself to be protected by the military strength of a greater Power, it becomes a subject of that greater Power. The first decisive step which America took at the Congress of Philadelphia was to decree that henceforward a single Army should be placed under the orders of the Union, and this example was followed by Switzerland.

It is clear, then, that since the so-called States of the Union are States no longer, the title is nothing more than conventional. Lincoln did not mince matters during the last war, but declared that the States had their status in the Union and none other whatever. This is the fact; they are subject territories, and when the Southern States revolted against the collective will they were rebels. Rebel States they were called, which is, properly speaking, a *contradictio in adjecto*, for only subjects can rebel. But in politics names go for very little; considerations of piety or prudence may often lead to the retention of titles whose meaning has been lost. This happens especially often in Federations where the vanity of former sovereigns has to be spared. The American Colonies had broken away from the mother-country so they could call themselves Colonies no longer, and serious were the discussions of what their future name should be. Finally, after the individual territories had seized upon sovereignty for themselves in the anarchy of the War of Independence, they were given the title of "States," which was thoughtlessly adhered to even after the former States had lost their right to it in the Union. Look at the contrast with the Seven Provinces of the United Netherlands. They had been provinces in the greater Netherlands who had owned obedience to the King of Spain as their common sovereign. After they had broken with him and had each achieved sovereignty for themselves they still kept their title of Province. It would have been folly to have abandoned it, for they had not become sovereign States.

When we stick to facts it is clear that in Federal States the individual members have lost the right of arms, and with it the right to define their own supremacy. Here again America's procedure is typical. The Constitution of the North American Union begins with the words "We, the people of the United States, . . . give and decree this Constitution." Here we have a clear declaration of who is sovereign; it is none of the individual so-called States, but the people, the collectivity of the "United States." It follows that this sovereign is at all times free to extend its supreme rights in constitutional form. The power to do this is what the teachers of constitutional law described in their jargon during the early years of the North German Confederation with the appalling phrase "Jurisdiction over Jurisdiction" (*Competenz—Competenz*). The Constitution of every Federal State permits the Union to extend its jurisdiction, under certain forms, at any time, and to transfer to itself certain powers which have hitherto been vested in its members. Everyone of these must be prepared to see itself deprived to-morrow of some supreme right which it is exercising to-day. Thus at the beginning of the War of Independence an American statesman was justified in saying that the individual States were not really sovereign, for they stood *sub graviore lege*. Under President Lincoln the Federal Constitution was again remodelled, and it was laid down that no State might tolerate slavery within its boundaries. When the rebel States had been defeated they were first put

under military government, and later were allowed to summon constituent Assemblies, although their Constitution was laid down for them by the Union. Only those States which abolished forced labour were thus recognized, and the others continued to be under military law. It was only through the Union and its authority that the rebellious States were reinstated, and they only existed in and through it. Here we have the clearest possible lesson in constitutional law.

We find, then, that the radical difference between a Confederation and a Federal State lies in the fact that in the former the members are sovereign, and the central authority is subject to them. The central power can only signify its will by decrees, and it is left to the individual members to give effect to these laws of the Confederation, as they are wrongly called, by making them the law of the land. Since there is no guarantee that this will be done, anarchy often rules. In a Federal State, on the other hand, sovereignty is withdrawn from the hitherto independent members. They cease to be States, even though courtesy may still give them the title, and sovereignty is vested in the central authority. Of course this latter can only frame its decrees by sanction of the members, for the Federal State is distinguished from the mono-State (*Einheits Staat*) by its members being directly concerned in the framing of the will of the whole. Here again the practical shrewdness of the Americans has hit upon an admirable plan. The idea of a two-chamber system was first outlined by Sherman, the Connecticut delegate, at the

constituent Congress of Philadelphia. Beyond the assembly of representatives of the nation he demanded an Upper Chamber consisting of Senators, to be nominated by the authorities of each State, the same number for each, be they large or small. Thus beside the Chamber in which the whole sovereign people of America were directly represented by capitation, there existed another superior assembly in which every State was represented as such, by an equal number of directly commissioned delegates. This combination fulfilled its purpose completely, and Switzerland adapted it to its own condition in its National Council (*National Rat*) and Council of Delegates (*Stande Rat*), which were modelled upon the House of Representation and Senate of the United States.

The distinction between these two forms of Federation is then one which strikes down to their very roots, and therefore it is not difficult to understand why the transition from a Confederation to a Federated State is generally only accomplished after severe struggle and upheaval. Although the very existence of the State is in the balance, few are found to acknowledge it, and as a rule a State stands on the defensive and only consents to shift the basis of sovereignty when the crisis is at its height. Nothing brought America to the step except her general loss of credit, and a Civil War was needed to break the forces of particularism in Switzerland.

When we look further into the political conditions which have seemed favourable to the development of Federal States, we find that the

two which history has known hitherto, Switzerland and North America, have been Democracies and Republics. It is obvious that under this form of government no one is an ultimate loser by the transition from a Confederation to Federalism; the centre of gravity is moved, but no subject has his rights curtailed. The inhabitant of Uri or Lucerne still possesses all the rights which were his under the old Confederation, only now he exercises them not only within his own Canton but in the Assembly which represents the whole Federated Union. In such a case the change demands no sacrifice of the individual, but in a monarchy a very considerable one is required from the King; it is in fact a contradiction in terms to ask a sovereign to recognize a legal superior.

The second and equally important factor for the healthy growth of even the narrowest forms of Federal life is the presence of a moral force which we may call the instinct for Federal law. A nation must have a sense of respect for the boundaries which have been sacrificed, and a living consciousness that the old landmarks are still inviolable. Tiny as the original Cantons were, they were the cradle of modern Switzerland. It was upon the shores of the Lake of Lucerne that the half mythical history of the Confederation was acted, and no other Canton would ever dream of annexing this little community. In North America the legal sense is very weak as regards the foreigner, and the phrase about the "manifest destiny" of the Union seems to its citizens to cover every deed of violence towards

Mexico and other neighbouring States. And yet within the Union this youthful nation, who have not yet quite outgrown fist-law, evince a deep respect for the law of the individual States, so-called, and we find among them the living sense that the State once founded may not be infringed upon, but lives on as a product of the people's sovereign will. A large State has never once even attempted to swallow up a small one, but, on the contrary, America, like Switzerland, has seen its existing States split up. Maine and Vermont were originally parts of other States, and after the Civil War Virginia was likewise divided. Here, then, we see a very strong natural Federal instinct at work ; and in every State the people is as sovereign as it is in its neighbour.

It is clear, furthermore, that a Federal State can only remain vigorous and healthy when there is an approximate equality of power among its members. Switzerland provides us with a very mine of illustrations of this. It is astonishing to trace the working of the natural forces of Federalism in Swiss history and to observe how, as the Confederation became more and more firmly knit, the excessive strength of the large Cantons diminished. Berne, which had more square miles in the seventeenth century than all the other Cantons put together, is now so much weakened by the independent organization of its Bailiwicks (*Vogteien*) that, although it is still the biggest Canton, it is no longer in a position to quarrel with the others or to swamp them in any way.

The question is naturally one of a relative,

not of a mathematical equality. Since the whole system is built upon this relatively equal power of the members of the Union, North America has no natural capital city. There has been a metropolis of New York since the year 1787, but it was purposely not made a capital, but a Federal Capital *ad hoc* was constructed instead. Columbia, as being a small territory without a vote, was selected as the site for this Federal Capital. In Switzerland, of course, the capital of the Confederation was bound to be Berne; there was no alternative, since Berne had led the victorious party in the war of the Sonderbund.

Before that the seat of government had varied between Berne, Zürich, and Lucerne. The most careful precautions were taken to prevent Berne from gaining any preponderance by this preference. Thus not more than one citizen of the same Canton is ever one of the highest officials of the Confederation, in order that the idea at any rate of Federal equality shall be maintained.

XXII

THE GERMAN EMPIRE

In order to understand the difference between our own Empire and the republican Federations which we have been considering in the foregoing chapters we must retrace the history of the various developments of these States, and doing so, we discover a contrast of the sharpest possible kind. We have seen how, in the case of Switzerland, the separate provinces were gradually drawn more closely to each other by the common struggle for independence against their powerful neighbours, and how this military alliance in process of time became a firmer federative bond. In America we have seen the same kind of military union gradually forging a link between colonies which had nothing in common except their origin, and a more or less nominal dependence upon the British Crown; it has been said that they were sisters only through their mother-country. These processes are obvious and normal, but who can discover any analogous federalistic development in the history of our own Fatherland? What has Germany been these thousand years? Always an Empire, always a Monarchy, with the exception of sixty years of a shameful federal

anarchy, for which we have Napoleon to thank. Is the history of ten centuries to be estimated by this one exception to it ?

Germany has been a monarchy since the Treaty of Verdun, although it was feudally constituted and prone therefore to disruption. Nevertheless the power of the Crown was so strong in the beginning that all the princes were merely its vassals. In the eleventh century we were much nearer achieving unity than were the French, for at that time their barons were much more powerful than the German feudatories. Then came the union of our national Kingdom with the Holy Roman Empire which falsified the essence of our monarchy, and the State was led into paths which ran counter to the nation's inner life. The internal cohesion of the Empire was bound to be destroyed by a supreme authority whose centre was sometimes in Germany, sometimes in Italy, and which hurled its decrees suddenly out of the darkness. Germany was the only great country of Europe which possessed no capital city, and the attempts to make one at Goslar were speedily doomed to failure. Thus the power of the monarchy dwindled and indiscipline increased, territorial principalities arose upon the ruins of the national Kingdom, were formally recognized under Frederick II., and gradually absorbed all the vigour of the nation.

Finally we have the catastrophe of the Empire bound up with the territorial rulers of a country which was not under its dominion. When the Imperial Crown passed to the House of Hapsburg the old institutions lost their meaning more and

more, and Germany lapsed unconsciously under a disguised alien rule. The situation was first cleared in some measure by the Peace of Westphalia; Germany had won religious freedom at the cost of streams of blood. The great Peace did not extend to Austria, for while Germany celebrated it by rejoicings Austrian churches bore the Pope's protest nailed upon their doors. The territories of the Emperor had no share in the freedom and toleration which were the sole possessions which all Germany held in common. Thenceforward the gulf was fixed between Austria and ourselves, the spiritual life of the two countries ran in different channels, and we may truly say that all the real strength of German politics had to lie in opposition to Austria. Germany could only shape herself anew in a struggle against a German Empire.

Let us now consider what the political forces have been which have struggled for and against each other in more recent history. We still find the old monarchical ideas persisting, although mutilated and misinterpreted. The so-called "Caesareans" of the seventeenth century taught that Germany was a monarchy, and its princes subject to the Emperor. The forms of the Constitution taken by themselves might seem to bear this out, but a real political insight could not fail to reveal how matters actually stood. No doubt German princes still took the oath of allegiance to the Emperor bareheaded and on bended knee, and appeared as his subjects, as far as outward ceremonial went, but the theory of their vassalage was of the kind which leaves

facts out of account. Federalistic tendencies were always existent in Germany side by side with the monarchical, and we have seen that the whole Middle Ages were filled with abortive attempts to realize them. The later Federations, throughout the period of the Wars of Religion, became a still greater menace to our national development, for they were purely separatist in tendency. The Schmalkalden Alliance was certainly no matter for special congratulation, any more than the League was later.

The only real force which was capable of surviving this chaos lay undoubtedly in the secular principalities. Their particularism shone out as relatively the healthiest influence in the welter of territories held by Church or town, noble or princely Houses. They had the vigour which the crumbling national monarchy had lost and which the Federalistic tendencies failed to grip. Nothing but the phrases of German politics remained to the Regensburg Reichstag, but in Dresden and Munich there was real government. The die was cast in favour of the German princes when they earned, in the days of Luther, their undying honour as protectors of the Reformation, and showed that the territorial principalities of Germany were destined to rise above the chaos. The only question was which of them would succeed in establishing a government strong and noble enough to make his province the cradle of a new movement for German unity, to fill the Imperial throne, and thus re-create the monarchy from the heart of the nation itself.

If we can imagine in the place of Maurice of

Saxony a really high-minded Protestant statesman with great ideas, daring enough to rebel against the Catholic Emperor for the sake of German unity, and to found a Protestant Empire, we see that Electoral Saxony might have filled the place that Prussia holds to-day. It seemed for a time as if the gifted Palatine might build up some such State. But it came to nought, and with the Great Elector the race of Hohenzollern began to rise, greater and more fortunate than all its rivals, in Brandenburg-Prussia. The Hohenzollerns thrust their State so far into the van of the national life that from the reign of Frederick II. it was clear that Prussia must either rule Germany or perish. Frederick the Great did not create German dualism, for it had existed since the days of Luther. The huge hypocrisy of the "Reichsrecht" had become absolutely ridiculous since Germany had become a Protestant country to such an extent that all the most characteristic productions of our national intellect, and the whole of our art and literature, were Protestant through and through. Yet still the native land of Luther remained politically Roman Catholic, ruled by an Emperor who was a Deacon of the Church of Rome, for he was chosen by an Electoral College where Catholic priests and their co-religionists held a majority. A Catholic State and a Protestant people—here was the great lie in the Constitution of the Empire, which Hegel called "unreason legalized."

The whole future of Germany depended upon getting rid of this Holy Empire and the States of the Church. As the only vigorous power in the

land it became the part of the territorial princes to appropriate the outworn and corrupt States of the ecclesiastical lords, as well as those of the Imperial Orders and the little towns. Their day was over, and it is clear how mistaken the patience had been which arose from the intense feeling for justice in the Germans. This instinct was so strong, and pros and cons were so carefully considered in our history, that vigour of action was impaired. Yet despite it all the blessed sixteenth century brought salvation in the shape of the first decisive step towards secularization, the "clearance" (*Heimramschung*), as the true-hearted German people called it then. In Prussia the Church lands were seized and turned into a secular Duchy, to the lasting benefit of the world. Unfortunately the great idea of doing away with all ecclesiastical estates came to nothing in 1525, and the second great clearance only took place after the Peace of Westphalia. It marked the great cleavage between North and South Germany. In the north the political consequences of the step were carried pretty well to their logical conclusion; Magdeburg, Halberstadt, Kamin, and all the other great ecclesiastical foundations were secularized and incorporated with the domains of the neighbouring territorial princes. Broadly speaking, this was the beginning of modern conditions in northern Germany, while the South, the Empire "*κατ' ἐξοχήν*" still remained burdened by the caricature of German political life.

Only hypocrites can deny that it had now become the sacred duty of Germany to complete

by her own exertions the necessary and life-giving process of simplifying her territorial conditions. Unfortunately this could not be accomplished without the intervention of a foreign Power. Frederick the Great had indeed opened serious negotiations with Bavaria during the second Silesian war, to bring about a fresh clearance, and had thus given opportunity for the rise of a Prussian party. If things had gone as Frederick hoped, the separation from Austria would have been accomplished then. He created a non-Austrian Empire for the first time, and placed the Bavarian Elector at its head by an election in proper form. This Empire was in a certain sense his work, and it was backed by Prussian bayonets.

Frederick, however, was not yet strong enough to carry through what he had begun. From this point of view the second Silesian war turned to tragedy, for it proved that Prussia was just strong enough to defend her captured province, but not to impose Imperial reform. Then a terrible thing befell us, through the power of an alien State. It was France who finally dissolved the chaos of ecclesiastical States in the revolutionary wars. Next came the Act of the Diet which dissolved the Empire (*Reichsdeputationshauptschluss*) in 1803, and crystallized the result of all that had gone before. It was a revolution from above, than which a baser has been seldom seen. No glimmer of patriotism animated the politicians who made it, not one of them spared a thought for their great Fatherland out of the greed which utterly possessed

them. Nevertheless this revolution was a pure benefit politically, for it only accomplished what was necessary and should long ago have been done. With one stroke it swept away all the dirty little States of the Roman Church, which existed to give fat livings to the Catholic nobility. The year 1806 brought the downfall of the Holy Roman Empire, and the last division of territory was taken in hand. Then the constructed States came into being, like the liberal model State of Baden, which was able to contribute 95 men to the Imperial Army when its new Grand Duke mounted its throne.

When we call to mind the endless fluctuations of frontier which conquests and secularizations have brought about in Germany, we are bound to admit that the respect for existing boundaries which we have perceived in the Federal States of Switzerland and North America has been totally lacking. For the last three hundred years our history has recorded an unceasing series of annexations, which have made it impossible for any German to feel the federative instinct for law which rightly characterizes the Swiss. How can any one of us express with sincerity the honour and respect for Saxon-Altenburg, or for Schwarzburg-Sondershausen, which a Swiss feels for Schwyz or Uri ? Every honest-minded man must admit that there is no reason why Schwarzburg and Reuss should be spared, while Hohenlohe, Fürstenberg, Stolberg, etc., are mediatized. We can hardly be expected to reverence the South German States who owe their existence to Napoleon's favour. The men

of Heidelberg and the Electoral Palatinate, mindful of their long and glorious history, still rate themselves too high to condescend upon a patriotism for the Grand Duchy of Baden.

It has therefore been impossible for us to breathe that federalistic atmosphere which emanates from the political forms of Switzerland and America. The result of our whirlpool of contending forces has rather been to give prominence to the one among them all which was real and living—the Prussian State. No unprejudiced person can deny that the whole political history of Germany has been centred in Prussia ever since the days of the Great Elector. Through her was won back every clod of the land which the sins of the ancient Empire had let slip. Thenceforward she became the pivot of the political strength of the German nation, as surely as she had ignored and even repelled its intellectual forces. After the tumults of the war of liberation the new Germany was at first nothing but a flimsy agglomeration of the little monarchical States which had survived the gigantic upheaval. Once again Prussia set to work upon her task of creation. In her were gathered all the real political threads of the Confederation's history. Upon her soil grew the nation in arms which was later to become the possession of all Germany, and with its growth her eight provinces were welded into one whole. She was the living proof that a Government which could bind Treves and Tilsit in an inward harmony could also unite all Germany under her protecting wing. Already the Prussian Zollverein began

to mark the true frontier between Germany and the world beyond, and the black and yellow boundary posts, with their profligate Double Eagle atop, remained beyond the pale. For many centuries it had been our misfortune that Germany's limits had never been clearly defined. Now at last came the triumph of the old Emperor's one-headed eagle, the insignia to which East Prussia alone had held fast, over the Double Eagle which had wrought us so much injury and shame.

In the march of these events we see the secret forces of Nature themselves at work, for Prussia's Crown was not always a willing agent. Nothing lay further from the thoughts of Frederick William III. than that his Customs Union should pave the way to separation from Austria, for in dualism he saw only benefit to his Fatherland. The final result was brought about by the very nature of things, and it produced a real Germany, united by common economic interests, while Frankfort, like Regensburg in earlier days, was ruled by the mere phrases of politicians. The Austrian leanings of Frederick William IV. were even more pronounced than his predecessor's, for he displayed greater enthusiasm for Austria than for his own State, and yet, despite all this, the amalgamation of Prussian interests went on and could not be checked. Although the Central States would have gladly destroyed Prussia after 1851, not one of them dared disturb the Zollverein, which held them without possibility of escape.

At last the men of genius arose who were able to read the signs of the times — William I.,

Bismarck, and Roon, and the decisive struggle of 1866 began. How did it end? Against the will of all Germany the Prussian State carved out with its good sword a Constitution which, even if couched in mild and friendly forms, could naturally be nothing but a complete subordination of the smaller States, a submission of the vanquished to the victor. Here was no realization of the dream of 1848, of a German nation elevating Prussia almost against her own will to become part of a united Germany. Thus did 1848 envisage the situation; Prussia was a so-called German State, and so was Schwarzburg-Sondershausen. The future Empire of Germany was to be the framework for Prussia's rise as much as of Schwarzburg's fall. These were the visions which inspired the makers of the Frankfort Constitution. But Prussia was totally unlike the other States, not only in size but in her nature as well. She was a living entity, not depending for her existence merely upon her share in the common life of Germany, but boasting a glorious history of her own. 1866 was to prove the reality of her individuality. Prussia was not swallowed up in Germany, although this phrase is sometimes used to this day in flat contradiction of the visible facts. Prussia extended her own institutions over the rest of Germany.

There is a theory set forth in almost every text-book of German constitutional law which is indeed characteristic of the infatuations of German doctrinairism. It would have us believe that Prussia rewarded herself for her victories in Bohemia and on the Main by committing

political suicide and placing herself on the same level as the States which she had conquered. Prussia, so it is said, was engulfed with all the other individual States in the new German Empire. An idea so magnificently comic could not exist in any country of the world but ours, which is so often drowned beneath a flood of theory. There is a dream-world of the understanding of which our nation should especially beware. This region of unrealities is the home of all the superfine subtleties and system-seeking of the majority of our political science teachers, and from it come also the excuses which are so rife among us to-day; a thing may be legally a piece of sharp practice, but politically it is justified. Here is a *testimonium paupertatis*, if ever there was one! What kind of a constitutional law can that be, which has to treat living truth as its enemy?

"Germany must be ruled in German fashion." With these words the worthy John Jacob Moser swept aside, a hundred years ago, the effort of doctrinairism to cramp German State-construction within the limits of a ready-made catergory. He then proceeded to draw a picture of the Empire out of the store-house of historical experience. The doctrinaire of to-day must be made to realize the same old teaching, for the new Empire is in this no different from the old. In the forms of its Constitution this State is unique—its counterpart is nowhere to be found. Ours is not the Constitution of a Federal State, it is the Constitution of the German Empire. Germany is a monarchy of immemorial age,

whose parts were beginning to fall asunder; then came a period of confederated anarchy which ran counter both to our traditions and to the whole character of our State, and brought us nothing but shame and dishonour, until, after sixty years of ignominy, we returned to a monarchy under federative forms. It was the monarchy of a territory which was fashioned out of German particularism in its strongest, noblest, most capable form, and which now extended its dominion either directly or indirectly over the whole of Germany.

It is easy to see that this new German Empire as it actually stands, resembles republican Federated States in some, at any rate, of its individual institutions. Firstly, there is a central authority which stands above the members and yet derives its political will directly from the territorial powers working in concert. Every State in Germany has its direct share, through its representation in the Federal Council (*Bundesrat*) in making up the collective will of the nation. The Empire and the Federal State both alike withhold from their members the essential prerogatives of sovereignty. The right of arms is not theirs, but belongs to the Empire alone. The Emperor is the sole war-lord, and no one of the German States is in a position to impose its own will in matters lying outside its own borders, but each is subordinate to the higher power of the Empire. Finally—and this is also true of Switzerland and North America—the sovereignty of formerly independent States has been destroyed by the Empire prescribing

the compass of their supreme jurisdiction, and being always in a position to increase or to restrict that compass.

A widely extended sphere of autonomy has been left with the States, but only within the limits set by the Imperial authority, and every State must be prepared to see the sovereign powers which it still possesses withdrawn in the future by Imperial decree. We have an example in the civil law, which was not originally under the control of the Empire, but was made so by an alteration in the Constitution, with which the former defendants of particularism are now in agreement. The United States employ even more officials of the Federal Government than Germany does Imperial civil servants, and the reason for this is explained by the course of our history. Like America and Switzerland, our Empire exercises its functions either through its own servants or through the servants of the individual territories, according to circumstances. The principle that Imperial Law breaks Provincial Law makes the Empire indifferent as to whether its laws shall be carried out by its own officials or by those of the provincial authority. The history of the Zollverein was a training of inestimable worth for Imperial policy, for its long years taught the Prussian official class, which was distinguished equally for its uprightness and for its disagreeable manners, the necessity of establishing friendly relations with their lesser associates, men who were free of all evil intention, but vainer and smaller-minded than themselves. Their great weakness is intoler-

ance of any strange official intruding upon their sacred domain, and every attempt to establish one Customs Service for the whole Zollverein failed, for there was no agreement until the little States were allowed to keep their own liveries. It was not realized at first how much a cockade meant to the soul of a petty State. As soon as this was understood, the astonishing discovery followed that these States who had striven so ridiculously against the simple proposal to set up a common Customs Service were prepared, now that they had got their own way, to carry out their obligations with a really touching loyalty. It has practically never happened that a State has swerved from its duties towards the Zollverein.

We see from this that the Empire has good reasons for setting a limit upon the number of its officials. Experience has always shown that we can rely upon our Confederates. A strong Imperial Civil Service need only concern itself with one or two departments of Government, such as posts and telegraphs; and for the rest the Empire contents itself with making laws and leaves the territorial authorities to carry them into effect, and here the matter rests for every one except the pedants of formality. No doubt there are elements of the comic about the sentences of the High Court (*Landgericht*) of Jena, which begin in the name of the prince, or of the duke, or of the king, according to whether the accused be a subject of a prince, a duke, or a king. Nobody, unless indeed he be a petty prince, need trouble his head about whether people are made subject

to these laws in the name of the Empire, or of a grand duke, and it is a matter of indifference whether the cockade they wear be green and white or black and white. These are the reasons why the Empire keeps the number of its direct officials as small as possible.

All these are characteristics which our Empire has in common with both the Federal Republics, and they are enough for most teachers of constitutional law; but we historians have to consider the historical foundations and the living spirit of Imperial politics, and then it becomes clear as day that our Empire rests upon a principle exactly opposed to that of these Federal States. They are obliged to smooth over as far as possible the inequalities among their members, while our Empire is founded upon this very inequality, and upon the leadership of one State which has subordinated all the others to itself in a Federal bond. What would happen to Germany if Prussia should cease to be? There could be no more German Empire. Out of this follows a truth, unpleasant to most people, but which contains no insult to a non-Prussian — namely that Prussia is the only one of the former States within the German Empire who has preserved her sovereignty. She has not lost the right of arms, nor is she compelled to make her supreme authority conform to the will of others. The German Emperor is also King of Prussia; he is the leader of the nation in war, and it is only an empty quibble to imagine cases in which conflict might arise between the Emperor of Germany and the King of Prussia. We sink to the level of

the silly joke which runs, "I would not advise the German Emperor to meddle with the Prussian King." We may leave it to theorizing professors to talk about the "war-lordship in peace time," which our lesser kings still vaunt, and which foreigners smile at. No doubt the outward forms of it are treated with all manner of consideration. Even the Prince of Reuss may boast of his army on paper, and a courtly myth maintains that this battalion is the Reussian army. Indulgence in these matters has been pushed only too far, but the fact remains that in spite of political provisos neither the King of Bavaria nor the King of Saxony are able to set a single man in the field. In war, the German Emperor is the war-lord; the right of arms has passed to the Empire, and in the person of its bearer the Empire is identical with the State of Prussia.

Prussia, too, is the only German State which is secure from any diminution of the limits of its sovereignty. The Imperial Constitution pronounces that all constitutional changes are invalid if fourteen votes are recorded against them in the Federal Council; therefore Prussia's seventeen votes are themselves sufficient to hinder any curtailment of her sovereign rights. Thirdly, —and this is a point which is usually treated with a curious silence — the German Empire demands as much obedience from its members as does any other State. This is why our Imperial law has for its ultimate weapon a bare sword, which has never as yet been actually drawn, but only once or twice rattled in the scabbard. Fortunately loyalty is so strong among the associ-

ates that no more has hitherto been needed. Nevertheless the weapon exists, and a contumacious State can be compelled to submit to the Imperial decree. The power of execution, however, lies with the Emperor, and he will not be likely to chastise the King of Prussia, for science does not contemplate the possibility of any person boxing his own ears.

The historical and political foundations of the whole Empire rest upon the actual and formal preponderance of Prussia, or upon "Prussia extended," as the Emperor William once remarked to Bismarck. What is the German army but the army of Prussia, constituted in 1814 as the nation in arms, and then expanded over the Empire. The Imperial Posts and Telegraphs and the Imperial Bank (*Reichsbank*) are all old Prussian institutions. This is all as it should be. Every Prussian will rejoice that the best political institutions should be spread over the rest of Germany, and every reasonable non-Prussian must be glad that Prussia should bring honour to the German name once more. Matters are so arranged that the will of the Empire, in the last resort, cannot be anything but the will of Prussia.

Besides the Imperial Crown there is another formal link which identifies this leading State with the Imperial authority, namely the office of Imperial Chancellor. I have already referred to the analogy, by no means fortuitous, between this office and the Grand Pensioner of Holland in the Republic of the United Netherlands. A short experience was enough to show us also

that the post of Imperial Chancellor can only be filled by the Prussian Prime Minister.

When Prince Bismarck retired after the war from the Presidency of the Council of Ministers, only retaining the leadership of Imperial politics, and was succeeded by Roon in the former position, it was soon discovered that the separation of the two offices was impossible. The right to divide them was retained in spite of this experience, with the resultant total confusion of the present moment.[1] We must hope that the natural union of the two has only been dissolved for a very short period, a few months at most; it will undoubtedly be restored by the very nature of things. If the German Empire is really to be led by Prussia, the leading statesmen of Prussia and of Germany must be one and the same person. The Imperial Chancellor is the channel for the will of the monarchy, which is the will of Empire and of the Prussian State united in one person.

Here we have a great contrast with earlier ages. Under the Saxon Emperors the Archbishop of Mainz, who was Lord High Chancellor of Germany, did indeed support the Emperor, and became an instrument of the King against the Princes of Germany. Afterwards, however, his position gradually altered completely. The Chancellor, who was himself chief among the Princes of the Empire, and in whose hands lay the direction of the business of Imperial Parliament (*Reichstag*) became the leader of the German Princes in that assembly, and the natural

[1] Lecture delivered in February 1893.

head of all Federalistic movements within the Empire. If he was a man of courage he represented the interests of the territorial rulers against the Emperor. Of this type was Berthold von Henneberg, who tried to reform the Empire on Federalistic lines. We have him to thank for the federated "*Reichskammergericht*" in which one Imperial Judge sat together with twelve other Judges representing the other Estates of the realm (*Reichstände*), and him also for the public peace of the country. The centre of gravity here was in these Estates and not in the Emperor. In old Germany the Imperial Chancellor filled a Federalistic office, representing as against the Emperor the territorial interests of the high nobility. At the present day he is an official of the monarch, and in the final instance his will must conform to the Emperor's. The contrast between then and now runs through everything; the institutions of the old Empire were outwardly more impressive, but the modern Imperial power is greater. The Emperor is no longer the feudal lord of his vassals, but he has much more real dominion over the Princes of Germany.

The acknowledged interests of particularism are represented in the Empire by the Federal Council (*Bundesrat*), and in it we perceive clearly how complicated our German form of Federalism is. The Federal Council is on the one hand an Assembly of State representatives like the American Senate; its function is to represent and co-ordinate the particular desires of the individual territories, and it is the historical

successor of the old German Imperial Diet (*Reichstag*) of Ratisbon, and represents those Estates of the Realm which have survived the catastrophes of our history. Secondly, however, it is undoubtedly an administrative authority endowed with real powers of control. Thirdly, it is a State Council (*Staatsrat*) composed of the most important members of the German Civil Service, in which the laws of a great nation are prepared. It is an assemblage of men of talent and great practical experience from every province of Germany, well fitted to frame legislation for a great Empire. The Federal Council exercises all these functions together. It is not, as was first feared it would be, and as Bismarck expected it to be, a partizan representative of the particular interests of the German Princes. The Princes have always loyally fulfilled their obligations towards the Empire, and they have accommodated themselves to the new conditions better than the middle class. Against all expectation it is the Reichstag which to-day represents particular, and the Bundesrat national, interests in Germany.

Besides this complicated institution of the Federal Council there is also a Council of Princes (*Fürstenrat*), an invisible body which produces very visible results. The tact which goes with political genius prompted Bismarck not to do away with Prussian ambassadors at the small German Courts, and every decree of the Federal Council is first discussed between them and the petty princes. The voice of the majority among the princes must be in agreement with Imperial policy, for

the whole of their common political existence is founded upon loyalty and mutual consideration. In this way a Council of Princes is in latent existence, as it were, and we feel the effects of it every day. It is an old story how the Grand Duke of Weimar once said to Bismarck in the course of a dispute, "Remember that you are my Imperial Chancellor too." Ridiculous as this may sound, there is a grain of truth in it. It is part of the special duty of the Chancellor to maintain as close a personal relationship as possible between himself and the German Princes, and Bismarck was particularly successful in his management of poor King Louis of Bavaria with his colossal vanity. This institution of Prussian embassies at the other German Courts is the reason why the right of embassage has been retained by our little States. The presence of a Bavarian minister in Paris, where he has nothing whatever to do, is in itself absurd, and it is only permitted upon grounds of formal equality, because Prussia, as such, does not wish, in the interests of Imperial policy, to give up sending her ambassadors to the little German Courts.

This piece of inconsistency, permitted for political reasons, which allows non-sovereign States to retain their right of embassage, has been partly responsible for certain misunderstandings of actual facts. This brings us to a last consideration, which has been a great stumbling-block to teachers of constitutional law. There can be no doubt that the former German States have lost their sovereignty in the political sense,

but on the other hand it has been personally retained by most of their rulers. Thus the King of Saxony is personally in the peculiar position of a sovereign lord, acknowledged as such by all the Royal Houses of Europe, and subject to no man, while the old princes of the Empire were subject to the Emperor. Our modern Empire has rightly been satisfied with giving the Emperor in his own person only the position of *primus inter pares*, and not that of an over-lord.

This has had an immeasurable effect in promoting friendly feeling amongst the Princes. Taken all in all, it is evident that the petty kings and grand dukes are not only happier than formerly, but that they also possess far more political weight. How much was the war-lordship of the King of Saxony worth in times past ? His State had no influence whatever so long as it stood upon its own feet, but now he has much greater power, by reason of his voice in the conduct of Imperial affairs. In addition, he and the others are far more fortunately placed as regards material things than they were. The Empire has relieved them of all the odium attaching to their office ; it levies the heavy blood tax by its national Army, it levies the indirect taxes also, and only the kindly and patriarchal functions of government are left to the individual rulers. All this explains why the widely-spread and deeply-rooted hatred felt for princely rule before 1866 has now totally disappeared. The Princes of Germany now fill a very gratifying place in popular opinion as benefactors of their territories, and their lot within the new Empire

may well be described as happy. It is not to be denied that the Empire is somewhat provincial in character, and that while its organization is strong as regards the Army, the administration of law, and economics, it is less so as regards the more intangible benefits of the nation. It is not to be desired that it should undertake much in the way of scientific or artistic enterprise, for it has no Councils skilled in these subjects. The Ministers of Public Worship and Fine Arts [1] in the individual States have far more knowledge of these matters, and therefore the Empire has rightly concerned itself but little with intellectual or aesthetic spheres, but has left these more delicate tasks of popular government to the care of the petty rulers.

Thus conditions have arisen amongst us which are obviously quite different from those of all Federal Republics. The divergence can be traced in the whole spirit of our legislation. Federal States are usually very averse to change in their law-giving, for nothing but a strict conservatism will carry them over the difficulties which beset them. In a hundred years America has only made one quite unimportant change in her Constitution. The legislative activity of the German Empire, on the contrary, has become almost feverishly great, for the new Empire is a growing monarchy, even as the old Empire was a declining one. Like a ball set upon a steep slope where it must roll without possibility of pause, our Empire is destined to travel more and more towards a firm centralization.

[1] *Kultus Ministerien.*

Every step in this direction is to the good. It was a blessing even for the gallant officers themselves when we reached the point of abolishing the Saxon and Würtemberg Corps of officers, and when Bavaria also lost its exceptional position. Until then a Saxon officer had practically no chance of ever becoming a general in command, because there were so many princes at hand to fill the post. Moreover, the prospect of being always stationed somewhere between Zwickau and Zittau cannot have been alluring. It was impossible for the average man to enlarge his mind under conditions of this sort.

A real capital city was the first demand of the Empire's need of centralization, while the Federal Republics, as we have seen, display the very reverse of this requirement. Even although the Berliner is the most insupportable person in all Germany, Berlin must still grow larger, and draw more of the national forces into itself. Before 1866 there were many sturdy patriots who were sincerely in favour of German unity, but whose understandable dislike of Berlin prompted them to wish to make Brunswick or Nuremberg or Hildesheim the capital of the Empire. Such mistakes seem inexplicable nowadays, but at that time they were very firmly rooted. The headquarters of Jewish journalism could certainly never become the centre of the national life of Germany, and, moreover, the atmosphere of Berlin is too unaesthetic ever to allow the noblest artistic achievements of the German people to spring from there, for it can be no home for any true artist. It has always

been incomprehensible to me how a man can be a poet and settle in Berlin. Towns like Munich and Dresden will always offer greater stimulus to the artistic spirit than Berlin ever can. This is one of the reasons why the Empire has always shown a justifiable particularism in matters aesthetic, and has left them in charge of the individual States, thereby upon the whole benefiting art itself.

For the rest it is evident that once the capital is recognized it must be enriched by every possible intellectual force. Federal policy made a grave mistake, which, unfortunately, is now irreparable, when it transferred the Supreme Court of the Empire to Leipsig. Every advocate pleading in that Court feels like a fish out of water there. In all truly single States the seat of the supreme Court has always been also the capital. An increasing centralization in Berlin is also unavoidable for our commercial life, for it is obvious what power of attraction is wielded by the Reichsbank and the other Berlin banks. No change is possible. If Germany is to become a true monarchy, the capital city of its Emperor must also be the capital city of the nation ; and this centralization is in the nature of things.

FOURTH BOOK

THE ADMINISTRATION OF THE STATE

We are using the word "administration" in a wider sense than that in which it is usually employed, for by it we mean the manifestation of the will of the State towards living men, rulers as well as subjects, that will being codified and expressed in the decrees of the Constitution.

We have already discussed the indefinite nature of the boundary between Constitution and Administration, and seen that the fundamental institutions of the Army are properly the concern of the former. The theorist must judge separately each of the State's great institutions, and discover to which of these two great domains it most appertains; and with this approximate classification he must rest content, for the world of actual fact does not always consent to fall into the categories of theory.

Taken in this broad sense the subject of administration may be divided into the four headings which we shall consider in this Book. First comes the constitution of the Army, for without an armed force the will of the State cannot be effectual; secondly comes the administration of justice; thirdly we find in every State some form of administration of revenue, or system of economics, which is existent even in the most barbarous countries, which perhaps may not yet have adopted a currency. Finally to these

three indispensable activities of every government we must add a fourth, which flows in many channels, and is not necessarily to be found existing everywhere, although its presence is a sign that a nation is rising to a civilized level. This is administration in the strict sense, the whole great domain of the Police, as it was formerly called, the care of the public welfare and safety, as well as the superintendence of education. We dealt with the matter of this last division when we were considering the social foundations of the State, therefore it only remains for us hereafter to treat of the technicalities of the subject.

XXIII

THE CONSTITUTION OF THE ARMY

THE old political science was mistaken when it regarded the Army as nothing but the servant of diplomacy, and gave it only the subordinate place in its political system of being a means towards the ends of foreign policy. Such a conception of the functions of the Army has vanished from our age of universal military service; for we all feel nowadays that it is no mere aid towards a diplomatic goal, but that the very Constitution of the State reposes upon the nation's share in bearing arms. It is the disciplined physical force of the nation, in other words the Army, which supports the State. If power, within and without, is the very essence of the State, then the organization of the Army must be one of the first cares of the Constitution. The form which this organization will assume will be determined by the real inward character of the State, whether it be universal service, a territorial militia, or conscription with substitution.

The conception of the Army as the concentrated physical force of the nation leads on further to its intimate association with the idea of the oneness of the State. We may safely say that

an Army organized upon lines which truly express national conditions brings home to the simple man, more directly than any other institution can do, the realization that the State is one and that he himself is part of the whole. Trade, art, and science are cosmopolitan, and lead their followers beyond the limits of the nation. The possession of a vote, and service on a jury or upon the magistrates bench does indeed strengthen the feeling that the State is a community, but parliamentary life sunders the citizens by its unavoidable party hatreds quite as much as it unites them in joint political work. An Army organized on a really national foundation is the sole political institution which binds citizen to citizen, for there alone do all sons of the Fatherland feel themselves united. There will be little more conflict of opinion upon this point since our experience of the new German Empire. It is not the German parliament, as was formerly hoped, which has become the real and effective bond of national union, but the German Army. We may rather say that our Imperial Parliament brought a renewal of the old hatreds and calumniations, while the Army trained us to a practical unity. The King is the natural leader in war, therefore since the Army embodies the idea of national solidarity in so striking a form, it is peculiarly suited to the nature of monarchy. In a Republic, with its unavoidably frequent changes in the *personnel* of the supreme authority, the relation between the civil government and the commander of the Army is very much more complicated, and is even attended by various

dangers. We have seen how easily a victorious general may himself become a menace to the stability of the State, for the words of the poet remain ever true, "A King worthy of the name is mastered only by his peers."

Even those persons who look upon an Army as an evil, must still regard it as a necessary misfortune. If the existence of the State itself is necessary and reasonable, it follows that it has to assert itself in relation to other States. We will prove further that a strong, well-equipped Army is also the foundation of all political freedom, so that no State is to be pitied which possesses powerful military force. The weight of facts has put vague theorizing to utter rout upon this very matter. The whole Liberal world looks forward to the disarmament of all States as the ideal state of things, but the history of our century teaches us that the very opposite is taking place, armaments are everywhere becoming stronger and more formidable, and a phenomenon which is apparent in every country without exception, cannot find its origin in mere accident. There is, in fact, a radical error in the whole Liberal argument. The State is no Academy of Arts, still less is it a Stock Exchange; it is Power, and it would be gainsaying its very nature if it neglected its Army. In this matter, as in others, the quite peculiar position of England has led Continental theorists into error. As regards military affairs the situation of England is abnormal. She can rely upon her fleet alone as the national weapon, and need only use her Army as the second line of defence, since she has

learnt to renounce a policy of continental conquest. The finest and most glorious Army England has ever had were Oliver Cromwell's God-fearing dragoons, a splendid body of men both in efficiency and moral discipline, but these troops were adherents of a particular religious sect, and represented only a part of the nation. The order which they enforced only received the assent of their own Republican party, for the country, as the Restoration was soon to prove, was at that time still monarchically inclined. The English view of the Army springs from their experience of this Puritan domination. The ancient liberties of the land were in very truth enslaved and trampled upon by the continual imposition of force, and England lay under the heel of the Army. Cromwell could only govern through his major-generals, and the first task of the Restoration was to release the country from the yoke of these psalm-singing regiments.

Since that time the opinion has taken firm hold in England that the Army is the tool of the State, capable of being employed to thwart the will of the nation, and when a second Revolution installed a shadow monarch existing by favour of Parliament, the Mutiny Act was introduced under William III. Its provisions were somewhat as follows: Whereas the institution of a standing Army is against the law of this land, but nevertheless the maintenance of a certain number of thousand men is required in view of the upholding of the balance of power in Europe, and the controlling of the Colonies, the Crown is em-

powered to call out the requisite number, and the soldiers will be put under the Mutiny Act and outside the jurisdiction of civil law. This shows us at once the ridiculous contrast between England and Germany. With us the institution of the Army is the direct consequence of the law. The Army Law of 1814, one of the finest memories in Prussian history, laid the foundation for a more comprehensive legislation. Thus our Army stands upon a basis of law, and is not an anomaly as it is in England. These English theories, particularly as presented by Macaulay's polished pen, have infected continental Liberals. Macaulay has a talent for narration such as few historians can equal, but the thought underlying it is astonishingly deficient. He is for ever dragging in the same few phrases, which, closely examined, resolve themselves into Liberal party prejudices. He displays a lack of philosophic training which is absolutely disconcerting to Germans, and gives utterance to opinions which not one of our students would dare to express. With a most polished style, a noble dignity of mind, and a real enthusiasm for the freedom and greatness of his country, he combines a most evident lack of real intellectual power. When we compare him with Ranke we see at once the contrast between German depth and English superficiality. Macaulay's leading principle, which he has gathered from the experience of England and tries to apply to the whole continent of Europe, is that political freedom is incompatible with the maintenance of a standing Army. It is the insular arrogance which pre-

supposes without more ado that the conditions in its own islands are a measure for other States. How about the Armies of Rome and of Athens? In Rome every citizen bore arms. How can we so humiliate our Fatherland as to deplore the advantage which a strong, well-organized Army gives us over England!

The advantage which a nation derives from such an Army is not only in possession of a means to serve the ends of foreign policy, but further because a noble nation with a heroic history can for a long time use its Army as a civilizing instrument, because it finds in it a school for the real manly virtues which are so easily lost in an age of commerce and luxury. We have to admit that certain high-strung delicate artist-natures cannot endure military discipline, and from them a distorted view of universal service often emanates. The judgment of exceptional characters, however, ought not to be accepted upon these weighty matters, where we should abide by the old rule, *mens sana in corpore sano*. This physical strength is particularly important in times like our own. It is a deficiency in English civilization that it knows no universal service, although the lack is supplied to some extent by the great size of the Navy, and also by the perpetually recurring small wars in the numberless colonies, which occupy and sustain the manly spirit of the nation. It is in great measure due to these colonial wars that a large amount of physical energy still exists in England. More closely examined, a great deficiency becomes apparent. The want of

chivalry in the English character, which strikes the simple fidelity of the German nature so forcibly, is due to the fact that the English do not take their exercise in the noble practice of arms, but in acquiring dexterity in boxing, swimming, and rowing. These have their value also, but it is obvious that this whole system of athletic sport must also encourage the athletic spirit with its barbarism and its instinct for external things, which ever leads it to strive to carry off the prize.

It is then the normal and reasonable thing for a great nation to embody and develop the essence of the State, which is power, by organizing its physical strength in the constitution of the Army. We live in a warlike age; the oversentimental philanthropic fashion of judging things has passed into the background, so that we can once more join hands with Clausewitz in calling war the forceful continuation of politics. All the peacemakers in the world will never make the political powers all of one mind, and until they are, the sword will be the only arbiter. We have learned to perceive the moral majesty of war through the very processes which to the superficial observer seem brutal and inhuman. The greatness of war is just what at first sight seems to be its horror—that for the sake of their country men will overcome the natural feelings of humanity, that they will slaughter their fellow-men who have done them no injury, nay, whom they perhaps respect as chivalrous foes. Man will not only sacrifice his life, but the natural and justified instincts of his soul; his very self

he must offer up for the sake of patriotism ; here we have the sublimity of war. When we pursue this thought further we see how war, with all its brutality and sternness, weaves a bond of love between man and man, linking them together to face death, and causing all class distinctions to disappear. He who knows history knows also that to banish war from the world would be to mutilate human nature. There could be no freedom without military power ready to sacrifice itself for freedom's sake. It is ever necessary to repeat that when scholars pronounce upon these matters they always have in their minds the idea that the State is designed only to be an Academy of Arts and Science. This it should be also, but it is not its primary function. A State which neglects its physical strength and only cultivates its intellectual powers perishes.

We must, above all, recognize that greatness depends far more upon character than upon culture, and that the driving forces in history are to be sought in those circles where character is developed. Only brave nations have a real history. In the great crises of the life of nations we see how the warlike virtues have weighed the balance. Rightly does an old saying call war the *examen rigorosum* of States, for in it they show what they are capable of, not only in the way of physical strength, but also in moral force and to some extent in intelligence. There is a kernel of truth in the well-known colloquialism which has it that the Prussian schoolmasters won the battle of Königgrätz. War brings to light the achievements of the people in peace. The Army

is not always upon active service, but the silent labour of its preparation never ceases. The world never realized what the reign of Frederick William I. had done for Prussia until suddenly the gigantic force which had been patiently accumulated burst forth in the days of Frederick the Great. The same applies to the year 1866.

For the reason that war is politics in terms of force, it is never decided upon military grounds alone, but by the policy which guides it. Highly significant of this is the history of 1848 and 1849 when Wrangel and Prittwitz could quite well have made an end of the Danes, but the King hesitated, from a certain repugnance to the step, and also from a dread of Russia. But no Army can fight for compromises. Every war is by nature radical, and staunchness in the troops can seldom prevail against vacillation and aimlessness in the policy which directs them. Think of the campaign in Champagne in 1792, when the Prussian and Austrian troops still possessed tremendous superiority over the Sans-culottes, so that in the neighbourhood of Mannheim a single battalion of the Wedell Regiment once held the passage of the Rhine against two French Divisions for a whole day. Yet, politically, the result was a great defeat for the coalition. The Allies were disunited; here was a policy without a certain aim, a campaign whose purpose had disappeared. Political considerations are very apt to hamper the wars which coalitions undertake, and history has many times proved the truth of the poet's words, "the strong are strongest when they stand alone." During the

campaigns of the Allies in 1813 and 1814 it was the unskilful Russian generals who sided with the brilliant leaders of the Prussian Army in fighting the war to its bitter end, while the more gifted Austrians remained lukewarm, by reason of their own unstable policy. Their indecision could have found no better Commander-in-Chief than Schwarzenberg. Many a war is lost before it is begun, because it proceeds from a policy which does not know its own mind.

It follows that a really great general is always a statesman as well. Moltke's letters show us the depth of his understanding of great political questions, and we perceive the same qualities in Blücher, that gifted child of nature. Blücher was a political genius, at whose capacities we never cease to marvel. His *forte* may not have been orthography, but he always saw things exactly as they were. He could see his way clear through the most complicated conditions. His demeanour at the beginning of the war of 1815 has become classical. Everybody believed that another dragging, boring war was beginning, in the style of the Schwarzenberg coalition campaigns, and Blücher alone held a different opinion. "We shall make short work of it this time," he wrote. "I have the French in front of me, glory behind me, and the guns will soon begin their music, for the Bonaparte has nothing." Napoleon was at the head of what was perhaps the best Army he ever commanded, as far as quality went, but it was too small, because his rule extended over France alone. It seems to us so easy to perceive this fact, but at that time

nobody realized it except Blücher. He had the quality which is essential to a great military leader, political genius, which means seeing a situation as it really is, and then constructing from it, with creative imagination, a vision of the developments to come.

If the Army is the organized political Power of the State, it can be nothing but Power, and may possess no will of its own, since its function is to carry out the will of the State's supreme authority with unconditional obedience. We cannot deny that this subjection of the will to the decree of the Head of the State is a very hard condition to impose. All the radical chatterers decry it as reactionary, but it is in reality the very cornerstone of a nation's political freedom. Give the Army a will of its own, and you destroy all political security. The fate of Spain is a terrible example of what a scourge an Army can become if it argues and splits up into parties. It is impossible to say what the country suffered at the hands of its soldiers who always took sides, first supporting Carlos, and then the virtuous Isabella. A stern military discipline is the only protection against these political perils.

The duty of unconditional obedience leads to the further necessity for a single oath of allegiance, setting forth with unmistakable clearness to whom that obedience is due. There must be no reservations when a man pledges himself to sacrifice his life. It is sheer madness to make youths, who are mostly drawn from the lower classes, promise to obey not only their King, but the Constitution as well, thereby ex-

pressly setting before them the alternative of doing one or the other in a given case. It would be the end of all discipline to make the soldier the judge of when the Constitution is infringed. The danger of this theory is recognized to-day, but in 1848 it had a great vogue, and it was everywhere demanded that the Army should take the oath to the Constitution.

When we thus discuss the obligations undertaken by mankind we must not be blasphemous enough to forget that none of them are absolute. Nor should they be, for conscience sets a limit to every human duty. No mortal man can offer an unqualified submission, and our soldiers must not be treated as if they were bound to strike their parents dead at their officers' command. Are the men of a standing Army to be levelled with the infant-murdering mercenaries of Herod? Our beloved Professor Dahlmann taught us this, as students, at Bonn University. No thinking being can offer up his conscience, therefore it may happen that for conscience' sake the individual may be driven to disobey the oath of allegiance. This must not, however, be set forth in the oath itself. The cases in which a soldier may disobey should no more be defined beforehand than the possible causes for divorce should be embodied in the marriage contract. The oath must be clear and comprehensible, and make no provision for exceptional cases.

The honour of the soldier is bound up with this energy and certainty of obedience. For this reason the unconditional submission, which we have developed almost to the point of hard-

ness, has become the glory and the token of the efficiency of our Army. The contempt, which is so often expressed in radical circles for this dog-like obedience, proves itself a sheer illusion. Military training develops character as nothing else can do. Capable old Army officers are often superior in this respect to the average scholars, because men of learning have much less opportunity of strengthening their character. Goethe's immortal words in *Tasso* express this exactly. The habit of silent obedience to superiors, joined to a firm command of inferiors, calls forth an independence of character which is highly to be prized. Our Prussian generals have never been other than frank, free-hearted men.

All this is so obvious that our amazement grows at the obstinacy of the doctrine which maintains that an Army sworn to unconditional obedience is an instrument of slavery; far more is it an instrument of liberty. The man is ignorant of history who believes that a national Army bound by its oath can be made to serve every reactionary end. Was Cromwell's Army, that bugbear of Macaulay, the finest Army that England ever had, able to hinder the Restoration of the ancient Monarchy? Charles II. returned unaccompanied by troops, but he was able to gain a moral victory over the Army, because he had the nation at his back. Certain of the old generals of the Republic were indeed bought over and entered into relations with the Royalists, but the great majority were God-fearing Republicans, and yet these thousands of fine soldiers, firm-willed as they were, offered

no resistance, and the regiments simply laid down their glorious standards and disbanded. Thus the physical strength of the Army is far less powerful against the expressed will of the nation than the doctrinaires would have us believe. The web of history is not so coarsely woven as to allow fist-law to decide everything. Look at the great *coups d'État* in France, when the Army was always an instrument of the nation's will. The French troops who obeyed Napoleon's call on the 18th Brumaire owed allegiance to the Republic, not to him; therefore they broke their faith. But behind them stood the nation, and for it there was no political idealism left but military glory and the fame of the Tricolor. In this mood an able and powerful Dictator was welcomed as a deliverer. In like manner, in 1851, when France was wearied to death by the eternal strife of parties, the people were content to be enslaved once more; their feelings were expressed in the name they gave to Napoleon III.—"saviour of society." Only the French lack of conscience could persist in denying this fact. It is foolish to assert that the King of Prussia could upset the Constitution with the aid of an Army which dare not refuse him its obedience. It is, on the contrary, impossible to rule for long against the will of the nation in a country where universal military service is established. The blind obedience of the Army, then, is not dangerous to a well-ordered State; it is infinitely more perilous when it displays a will of its own. A submission so absolute might indeed bring about a slavish

attitude unworthy of free men, if there were not in every soundly constituted Army the counterbalancing force of a strong feeling of chivalrous personal honour. It was present with the *miles Romanus* of the Legion, it ran through the chivalry of the Middle Ages, and we find it also in the proud military instinct of the modern Army, not as a personal prejudice, but bound up with its essence. This instinct is a blessing with which we cannot dispense; a valiant man who has pledged himself to unconditional obedience would feel humbled in his own eyes if he could not say to himself, "I am ready to sacrifice my life upon the instant, and therefore I must keep the shield of honour unstained." The sceptic in these matters is depriving the soldier of the only self which is still his own, for by casting doubt he is violating the inner sanctuary of the soul of man.

For this reason the military sense of honour is sometimes too prone to take offence. The feeling is wholesome in itself, although the abuse of it should not be condoned. The practice of duelling still goes on, even in civilian circles. It is in fact the last barrier in a democratic society against an absolute degeneration of manners. Men are restrained to a certain extent by the knowledge that they must stake their lives for the sake of an insult, and it is better that a promising life should be sacrificed now and then than that the morals of the whole nation should run wild. The great moral vigour, which is one of the Army's greatest strengths, is bound up with the class feeling of honour. Officers would

fall in the estimation of their subordinates if they did not evince a refinement of manners in a sensitive sense of honour. Brutality of manners has increased in the English Army since the abolition of duelling in that country, and officers have even been known to come to blows with each other in a railway carriage, in presence of their wives. It is not difficult to see how the prestige of the officer must be lowered in the eyes of his men by such behaviour. Nothing could be more untrue than the democrat's idea that the lower orders will obey their equals more readily than they will those in a higher station. Respect is still paid to a real gentleman more readily than to one of the old corporals. The last war proved this to be the fact; the French officers had not the needful authority over their men.

War is nothing but foreign policy expressed in terms of force. From this it follows that the lines on which the Army is constituted reflect accurately the form of the State Constitution, and further that the nature of the military organization decides the method by which war shall be waged. Because the Middle Ages were aristocratic, their battles were fought by the mounted arm, which has always been the weapon of an aristocracy. The principle continues to prevail in our own times. A strong preponderance of cavalry is always a sign that the economic circumstances of a nation are still immature, and that the aristocracy has too much power in the State. All highly civilized peoples are obliged to limit the number of their mounted

troops, for they lack space to develop this arm in a cultivated country. Technical arms on the other hand have always appertained to the middle classes; and commercial nations, by reason of their capital and their technical skill, have always produced the best military machines. The Carthaginians were the foremost nation of ancient history in the superiority of their weapons of offence, but Rome was the victor nevertheless, not indeed because of the genius of her generals, but because of the moral strength which united her national Army.

The advantage in technical skill and appliances, important as it is, is not the primary factor in deciding the issue of a war. An Army cannot be judged from the economic standpoint of the perfection of its engines of war, nor according to the principles of division of labour, although the commercial States which give their preference to professional Armies look at them in this light. In war the ultimate decision is not reached by a technical superiority but rather by the superiority of morals and morale. On the physical side, the English soldiery are very efficient, they are trained in boxing, and extremely well nourished. But even in England people are beginning to be aware that their Army lacks something in comparison to a national Army, because it excludes the moral strength of the nation. The world is not so materialistic as Wellington thought it when he declared that enthusiasm was useless to an Army, and only wrought havoc and confusion. In England, however, the Fleet is the real national weapon,

and whatever the country possesses of true warlike enthusiasm (and there is much more of this than is generally supposed upon the Continent, because the idea of Great Britain's dominion of the world is very widespread among her people) must be sought for upon its warships. In considering these matters, therefore, we must always uphold the purely moral standards of valuation for military institutions in opposition to the purely economic. It is necessary to be quite clear about the justification for the eternal complaints of the great cost of the Army. Without doubt the blood-tax of the military burden is the greatest which can be laid upon a nation, but here again it must never be forgotten that there are certain things whose worth is above all price. Moral treasures are among them, therefore it is unreasonable to apply a money standard to such conceptions as honour and power. Gold cannot pay for what we lost when the flower of our youth fell upon the battle-fields of France. It is unworthy to measure the moral by the material. It is the normal and reasonable condition when a great nation embodies and develops the essence of the State, which is in fact power, in the organization of the Army. It is further to be remembered that without an Army trade and commerce could not flourish. The standing Army of a nation with a glorious history behind it can guarantee a long period of peace, but it is madness to begrudge the sinews of war during such a period, and there is no greater extravagance than undue economy in Army expenditure.

When the conditions in a State are primitive the right to bear arms is always looked upon as the privilege of the free man. The Romans only introduced the mercenary system in the very latest stages of their history. With the exception of the officers, this soldiery was drawn from the dregs of society, hence the notion that military service carries a stigma, and its consequence, the desire of the free citizen to escape it. The centuries to come were hag-ridden by this bogy of the hireling Army, which has come harshly to light in our own day, in the creation of the Citizen and National Guard, the most unreasonable and unmoral of all military inventions. Citizens of the State supposed themselves to be above bearing arms against their country's foes, but they were not averse from a little parade at home, and desired moreover to be in a position to defend their money-bags from attack. Hence the truly abominable invention of a National Guard, set up with the preposterous legal proviso that in the case of civil disturbance the blessed rabble were to be dealt with first of all by this Civilian Guard, and the military only to be summoned when matters became serious. Here we have a total misunderstanding of the moral grandeur of military service. The right to bear arms will always be an honourable privilege of the free. Noble-minded men have always felt this, more or less clearly. "The God who gave men iron did not will them to be slaves" (*Der Gott der Eisen wachsen liess, der wollte keine Knechte*). It is the task of any policy guided by reason to uphold the honour of this honourable right.

It is obvious from all the foregoing that the study of the development of Army systems is as important for the historian as it is for the politician. It is remarkable how the progress of military technique among the Greeks went hand in hand with their political development. First of all we see individual kinds of weapon each confined to a particular tribe. Then as the tribal history became merged in the national history, the use of the weapons was united also, and we find the chariot fighters of Homeric times, the nimble Thessalian horsemen, the heavy-armed Doric infantry, and the light-armed mariners of the Ionic triremes all brought together into a complicated Army system. In Alexander, the great organizer of Hellenic military power, the apotheosis of the long development was reached; the rough valour of his mountain ancestry stood him in good stead for the disciplining of the Greeks.

We see the principle that bearing of arms is a privilege of free-born men running through the Roman Army also, for when Rome's power was at its zenith the proletariat was excluded from the Legions. The great military superiority of these troops arose from their social solidarity. The Emperors created the mercenary system which improves the efficiency of Armies, but injures their spirit. The real strength of Roman armies was always their infantry; cavalry never held more than a subordinate position of trifling tactical importance, although it was composed of Patricians and wealthy citizens. Not until they were brought in contact with

foreign countries who possessed more technically trained forces did the Romans develop their own upon the same lines. They learned much from Pyrrhus and more from the Carthaginians, who brought against them no national Armies, but well-organized and well-drilled hireling troops. The use of elephants by her enemies first taught Rome how to employ large bodies of artillery. Elephants undoubtedly took the place of our modern guns, whose function is to crush the enemy by mass. These arts were adopted by the Romans, and further developed by their use of throwing engines. They possessed a very elaborate system of siege warfare. Our little town of Boppard was their central artillery depot for the provinces of Germany and Eastern Gaul.

Even at this late period, however, the main force of Roman Armies was concentrated in the foot soldiery, whose favourite weapon remained the short sword, so deadly in its use, and requiring so much courage and physical strength to wield it aright. Even as their early wars were, as Livy describes them, *duella non bella*, so, later, they still held to the theory that long-range fighting should always be brief, and that no time should be lost in coming to close quarters and beginning the hand-to-hand struggle. A keen sense of honour animated the Legions, hence the relatively humane treatment of the troops, the rarity of corporal punishments, and the generally high consideration enjoyed by the soldiery. The Roman Army had but few officers in our sense of the word, for we should only apply the

term to the *legate* and *tribuni militum*, as the Centurion was, socially, on the level of our non-commissioned officer. The fact that the social line of demarcation was drawn so high, combined with the respect felt by the people for the rank and file, bred a noble spirit of independence even in the common soldier.

In the Middle Ages we find at first the levy *en masse*, that mighty national summons to a free peasantry, but it soon gave place to the unnatural form of Army which arose out of the aristocratic influences which warped the national life. We have already dealt with its evil results in respect of political institutions, and seen that a Monarchy limited by Estates, or, more correctly, a polyarchy, is simply an organized disorder. Its harmful effect is still more visible when it touches the constitution of the Army. The valiant German nations were fettered by the feudal system which placed such unnatural restrictions upon the number of those who were entitled to bear arms, that the armies were virtually composed of the nobility. The flower of the crusading Armies were the mail-clad knights upon their war-horses panoplied in steel. The great cost of this equipment prohibited the mass of the population from sharing any longer in the old delight of the sword; they were warriors no more.

In the fourteenth century we see the rise of the mercenary system as a natural reaction against this distorted order of things. As the towns became rich, and began to be conscious of their power, material interests gained such an

ascendancy that it came as a happy thought to the citizens that they might buy themselves soldiers. The Italian Communes were the first to raise a force of well-drilled infantry, who encountered the aristocratic cavalry with ever-increasing success. These troops were as utterly plebeian in origin as the mediaeval Armies were aristocratic. Their technical superiority in weapons over the latter soon began to tell after the introduction of gunpowder. In the days of Richard Cœur-de-Lion wars were still only combats of the knighthood, but the end of the fourteenth and the beginning of the fifteenth century is rich in record of battles where peasant and citizen armies overcame the nobles who opposed them. A memorial still stands in the market-place of Ghent to the Flemish burghers who vanquished the chivalry of France and Brabant with their heavy artillery; then we have the battles fought by the Ditmarsch peasantry against the Danish nobility, the Hussite wars, and yet another catastrophe, peculiarly characteristic of the age, the battle of Tannenberg, where the knightly orders, the flower of the German aristocracy, were defeated by the peasant levies of Cossacks and Hannaks from the east. All these were the decisive combats which sounded the death-knell of the old forces of feudalism.

As the power of the burghers increased they hired mercenary soldiers, and a military class arose whose sole profession was arms, and in which all the drifting elements in society sought refuge. Military service became a trade, and conforming to the mediaeval custom which bestowed

a fixed corporate form upon every craft, it soon produced the pious Guild of the Orders of the Landsknechts. These, with usages and jurisdiction peculiar to themselves, were a natural check upon the demoralization which could so easily gain ground among a professional soldiery. Thus the honour of the Landsknecht demanded that he should be tried only by his equals, and, if condemned, should expiate his guilt with his own weapon. When any member of the Order was accused, the standard was furled, and the Court, consisting only of Companions, assembled beneath it to try the offender at a drum-head court-martial. If he was acquitted the Ensign shook out over him the folds of the banner. All these honourable and chivalrous customs contributed to restrain the license of the homeless horde. Their adventurous existence contained a wealth of romance, and German bards have seldom sung more glorious lays than in the days of the pious Landsknechts. There was a Titan-like strain of heroism in these wild companions-in-arms whose trade was slaughter. It was not the men who composed the fighting force in its magnificent development in the sixteenth century under the House of Austria, who made these Armies the scourge of the country, but the dissolute horde of camp-followers who followed in their wake. The rabble of women managed the Commissariat by plundering the houses as they passed. The scum of the community flocked to the mercenary armies, but at the same time the unquenchable love of war in the martial German race drove even men of illustrious birth to join their

ranks as officers, as the nobility began to realize that honour was no longer to be sought in the heavy feudal cavalry, whose day was past. The lofty idea of serving their native land could have no hold upon such a nondescript host; rather they held themselves at liberty to sell their skins to the highest bidder. An entirely distorted notion of the proper composition of armies gained ground. It did not exclude great personal courage, which was abundant in the fighting forces of that time, but the holocaust which the Thirty Years' War made of German civilization shows to what an appalling extent the ethical standards of such Armies become vitiated.

The undeveloped finance of the period made this hireling system excessively costly. It is estimated that Charles V. paid rather more per head, reckoned in our money, for his common soldiery than we do to-day, officers included. When we remember the vast difference in the value of money, and the smallness of the taxes which could be imposed in those days, it is easy to see why armies were not large (more than 10,000 men were seldom united under one leadership) and to understand the need for disbanding them the moment peace was concluded. This is to a great extent the cause why so many States perished in the fifteenth century.

The flower of these troops of Landsknechts was composed of a well-drilled infantry, armed with muskets of doubtful accuracy. The Army marched in a solid body, preceded by an advance guard partly composed of pit-men (Bergleute), corresponding to the modern sappers, whose business

it was to clear away the difficulties of the terrain. In Napoleon's armies we still find the pioneers marching in front of the drums. Then came the main body, and the rearguard behind, and the march went forward in a direct line. When about to give battle the two forces took up the simplest possible positions facing one another, some cavalry were disposed upon the flanks, and the fight began. There was no idea as yet of any dramatic developments; the opponents sprang at each other, hewed and trampled the foe, or were hewed and trampled themselves. The numbers engaged were still so small that the great Landsknecht leaders liked to place themselves on raised ground in the midst of their troops, in a position whence they could overlook the entire field. George Frundsberg always thus made himself the living centre-point of his Army.

These were the simple little battles of the sixteenth century. It is very interesting to trace how the Thirty Years' War (here Germany is once more the great school of war in Europe) in some ways strengthened the Landsknecht system, while destroying it in other directions. It was evident that the Orders of the pious Landsknechts could no longer uphold their free proud existence and their peculiar forms of class honour against the universal degeneration of the age. The dissolute mob which now had to be driven into the ranks could no longer form a respected guild imbued with a pride of class. We perceive a sharp distinction being made between officers and men, of which there was no trace in the previous century, when the

division between leaders and followers was much less marked. The whole Landsknecht organization had hitherto had a defiantly democratic tendency, even duels between a captain and a common soldier were not infrequent. All this was now changed; the lowest classes of the people were incorporated in the Army in larger and larger numbers. In fact, from the social point of view, we may look upon the Thirty Years' War as an elevation of the Fourth Estate. The long down-trodden peasant now rubbed shoulders with the well-born gentleman. The peasantry composed the great mass of the new soldiery, who were thus separated from their officers by an ever-increasing gap, which we can measure by the introduction of corporal punishments at this period, which would have been an impossibility in the sixteenth century.

We see this social decline of the old system in some directions, but in others we observe great technical advances. Gustavus Adolphus was the genius who directed military science into new paths. He was the first to introduce a regular system of fire-control. He abolished the old arquebuses, whose adjustment, by itself, took so much time, and armed his troops with lighter muskets. Instead of wooden cartridges he gave them paper ones, which could be carried in a pouch, and so greatly facilitated rapidity of fire that they made volleys by whole battalions possible. Gustavus Adolphus was also the pioneer of the three-rank position for infantry. The first rank fired kneeling, the second standing, while the third loaded. He likewise increased the

manœuvring capacity of troops to a standard of mobility which greatly exceeded that of the stiff formations of earlier days. To us there seems nothing very extraordinary in the manœuvre by which he moved the Swedes from the centre of his line to out-flank the enemy who had beaten the Saxons on his left wing at the battle of Breitenfeld, but in his own day this was regarded as a marvel of tactical skill, for an evolution of this kind during the progress of the combat had never been seen before. In these wars cavalry once more became a very important arm. The difficulties of the ground decreased with the increasing devastation of the country, until large bodies of horse could sweep from the Danube to the Baltic. This altered the whole character of the war.

In these ways the Thirty Years' War brought great advances in military science. In the Netherlands another great school for the art of war was also offered upon German soil. Here the eighty years of struggle against Spain produced a long succession of great military engineers. The whole of the technical resources of the period could be brought into play during the sieges of Ostend, Antwerp, Breda, etc. The Low Countries were the classic home of the art of fortress construction; they became the teachers of the whole of Europe. A further development of military science followed under Louis XIV. The Thirty Years' War had already shown campaigns upon a large scale, for at the battle of Nördlingen, which was the greatest of its time, two of the Imperial Armies were united and made a total

of 50,000 men on one side. Louis, however, raised an army of about 120,000 men, in which the best troops were those of Bernhard von Weimar. Thus the French applied the lessons they had learned from Germans, with German soldiers against German soil. This mighty Army of Louis compelled the other Powers to keep larger forces on a war footing themselves; and it became a universal problem how to reconcile the necessity for these large bodies of troops with the limited financial resources of the various States. It is easy to understand why there was so much discussion of systems of national armaments during this period. It is well known that the first advocate of the idea of a people in arms in modern times was Machiavelli. His writings have, however, always left me with the impression that he thought of it more in the light of a reminiscence of antiquity than as an idea which he desired to see realized immediately. In his books *Dell' arte della guerra* he describes the vigour of the old Romans, in order to inspire his contemporaries to recover the courage and determination of their forefathers. In this way it is more a piece of historical imagination than of practical politics. We may say the same of Baruch Spinoza, a quite unmilitary thinker who reverted to the same subject in the time of Louis XIV. He was a bookworm if ever there was one. Neither his education nor training had given him knowledge of warfare, for he was an adherent of the commercial peace-party in the Netherlands, but he cherished an enthusiasm for antiquity.

In his case also the notion of universal service is nothing but a harking back to classical times. Practical statesmen there were, however, Vauban in particular, who took the question into more practical consideration.

The whole period was busied with the problem, but they were still far from a solution of it. By means of a tumultuous compulsory recruiting in the country the ranks of the hired foreigners were completed. When gaps appeared in the French Army the Intendants of the Provinces were ordered to fill them up, and the dregs of the people were gathered from the highways, and taken from the houses of correction, for this purpose. These generally sufficed, because there were always so many German vagabonds who took service in the French Army. With these elements to deal with, discipline was bound to become increasingly hard and cruel. The practice of running the gauntlet was introduced, because only such frightful barbarities could preserve order among bands of men as depraved as these. Small wonder that military service was again looked upon as a disgrace. It is to the honour of Prussia that she was the means of bringing Europe back to a more natural and more moral point of view. History must remember that Gustavus Adolphus tried to create an Army which could fight for its faith and its Fatherland, but when the mighty hero of the North was no more his work fell to pieces. King Frederick William I. was the first to re-embody the idea of universal service as a political principle, when in the opening paragraphs of his District Regula-

tions he sets forth that " every Prussian subject is born to bear arms." He upheld the duty of military service as the honour of every citizen. The country was divided into cantons, and each canton apportioned as a recruiting district for a particular regiment. The young men were chosen out betimes, decked with the red scarf of the cantonists, and were eligible for service when called upon. The nobility had legal exemption, which, however, was not practically applied, for they fulfilled their military service still more completely than the peasant class by furnishing the Army with officers. The Royal Princes also were all in the Army. The colleges for cadets were the training-ground for the non-commissioned ranks. The only other exemptions were for possessors of a fortune of 10,000 thalers, and such fortunate millionaires were rare in Prussia in those days. Certain urban districts were occasionally excused if the King considered that their inhabitants would be of more use to the State by continuing to ply their trades than by carrying the musket. Thus Berlin was always freed from military service, and it caused a great deal of trouble after 1806 before this privilege, the wisdom of which was very doubtful, could be withdrawn and universal service introduced there. Exemptions in Prussia were all founded upon the monarchical organization of labour, the ancient *suum cuique* of the Hohenzollerns, which prescribed for every class its share in the collective activity of the nation. We may take pride in the knowledge that the base bartering of souls, which we shall observe in

France under Napoleon, was never carried on in Prussia.

The number of these legal exemptions was still small in the reign of Frederick William I., but there was great passive resistance to compulsory service, for the people met it with a real revolutionary spirit. Even the King's iron will never availed to bring up the number of his troops to anywhere near the total for which he strove. At one time the sons of the soil did compose two-thirds of the Army, but as a rule they only provided half, and the remainder had to be recruited in foreign lands. As a result the Prussian forces were made up of two completely heterogeneous bodies of men, one being of natives of the country, who were compelled to serve, and who gradually attained to a certain level of patriotic emotion, the other was of the old professional soldiery, who were encouraged to marry as soon as possible, in order to keep them longer with the colours. Colonies of them were started, in little villages like Nowawes near Potsdam, where they might settle with their wives and children and ply civilian callings in the intervals of military duty. These composed one element of the Army; the cantonists, who formed the other, had to serve for twenty years, but were called up for so short a time each year that each man's whole period of service barely came to two years.

It is obvious that the system was still in its infancy, and that in Prussia as elsewhere in the eighteenth century the military organization still followed the forms of the old mercenary Armies. It is true that it was no longer a disgrace to wear

the King's coat, but it was still looked upon as a misfortune. There was not much improvement under Frederick the Great. It sounds like a paradox, but it is none the less true that Frederick's mind had a less commanding grasp of the ethics of compulsory service than his father had had. He wished to see the number of professional soldiers increased, on grounds of national economics. In his opinion "the peaceful citizen should not be disturbed when the nation goes to war," and it never struck him that the peaceful citizen himself is part of the nation. As an organizer the great King was not the equal of his rough old father. Exemptions were multiplied in his reign, and whole districts, such as East Friesland, were excused from the cantonal service. Finally, two-thirds of the Army were once more hirelings, and in the Seven Years' War the mercenary system was not yet a thing of the past. It is curious to observe how the element of the foreign soldiery forced a certain prudence of tactics upon the commanders of these Armies also, which we have already observed wherever mercenary troops were employed. The first principle of war was once more to spare and preserve the Army as much as possible, on account of the difficulty of refilling the ranks. It was most important for every leader to hinder desertion by every means in his power, and troops could never be billeted but were always kept under canvas. After every lost battle whole bodies of them made off at once. An Army could not move more than ten miles from its base without trailing its enormous baggage train

along with it. The issue of a whole campaign might turn upon the arrival or non-arrival of a convoy of provisions. In the year 1758, during the Seven Years' War, the investment of Olmütz failed, because Laudon and his Croatians intercepted a Prussian provision column. The King was obliged to raise the siege, and the spring campaign ended in failure. All this led naturally to very slow methods of warfare. We have no longer any idea of the importance which was attached in those days to mere manœuvring for position. The War of the Polish Succession is a case in point. It occupied nearly the whole of Europe for five years, and yet there was not one real battle in the whole course of the war. In spite of this it had tremendous consequences. France secured Lorraine, and Austria Tuscany, while the Saxon dynasty was once more established in Poland. The Italian frontier was altered by it in a way which has influenced history, for the Bourbons were set upon the throne of Naples and the Piedmontese came from Sicily to Sardinia. All these changes were results of the five years of so-called war.

The proverb, "Genius breaks all rules," is nowhere truer than in war. Frederick the Great set rules aside as far as any mortal man can disregard the limitations of the period in which he lives. His Silesian campaigns were still marked by the slowness which the composition of his Army dictated, when we compare them with the wars of our own century, but even in them the daring of the royal commander stands out in the marvellous battle of Hohenfriedberg, where

his genius showed itself for the first time in its maturity. The Prussian Army has won most of its victories in taking the offensive, which is the most suited to its character, and was also the most expressive of the innermost nature of its great King. In his own favourite phrase, "We must preserve the proud privilege of the initiative." Yet even he was still hampered by the conditions of the armies of his date. The Seven Years' War was relatively rich in pitched battles, yet from beginning to end only twenty-two were fought. Compare with that the number of decisive conflicts in the year 1870!

Yet, in spite of this, we are compelled to admire the genius with which Frederick led his cumbrous army to battle whenever any opportunity presented itself. This was what made him so incomprehensible to the average military leaders of his day. "My brother could do nothing but give battle," as Prince Henry disdainfully remarked about him, unconsciously pointing out the very quality which gave him his renown. We feel that in Frederick we are witnessing the dawn of a new era, for already he regarded the destruction of the enemy as the first aim in war. In the second campaign of the Seven Years' War the King's intention was to deal a blow at the heart of the foe, but not to follow the spirit of his age by occupying more and more Bohemian territory until he forced the Empress-Queen to come to terms of peace. Then followed his reverse, the fatal battle of Kollin, and from that time onwards Frederick was too weak to be able to allow free play to his

natural audacity. The same year, 1757, contained the two battles of Rossbach and Leuthen, but in them the King did violence to his most inward inclinations by assuming the defensive. We must not discount the tremendous importance of money in the conduct of military operations in those days. The exhaustion of his resources was an additional reason why Frederick was forced to carry on the war with more caution in the later years. He said himself, "The victory will lie with the possessor of the last thaler." This observation would be less true at the present day. Bernhardi has discerned the root principle of the Frederician strategy correctly in his book upon Frederick the Great as a military leader. The historical facts are these. Frederick exemplified the axiom that genius is beyond all rules, as hardly any other man has ever done. In contrast to the great King, his brother Henry was a General absolutely in the spirit of his age, and for this reason he did his best work during the last years of the long struggle. We must look at these events in the cold light of science. To modern ideas it seems absurd that Prince Henry should have been able to hold all Saxony right down to the south, year after year for the last three years of the War, with his little Army, which he disposed in an inordinately long cordon all round the country. A modern Army would naturally have cut this thin line at some point or another. Did the Austrians ever attempt to do so? The question must be negatived, for it never occurred to them to try. Daun was as much one of the anxiously methodical Generals

of the old school as was Prince Henry himself, and the credit remains with the latter, as his great brother always acknowledged, for having defended Saxony for three years against the foe. No part of it was lost, except Dresden itself, the rest of the country remained as a source of revenue, which the King could draw upon at will.

Duke Leopold I., the "alte Dessauer," had already introduced a few technical improvements into the Prussian Army. The unreliable wooden ramrods had been replaced by iron, and the bayonets bent outwards, so that the muskets could be used for thrusting as well as shooting. Thus more mobility had been attained, and the tactics of Frederick's day show the dawn of a new era. Dispositions were still substantially dominated by the old line tactics, and armies advanced straight against one another so that the course of the battle was simplicity itself. Here, too, Frederick was an innovator. He had as yet no reserves in the modern sense, for although he placed his troops in two lines they were both very early engaged. He tried to supply the place of a reserve by refusing with one wing at the beginning of operations, in order to give the decisive blow at the end with their husbanded strength. This was the famous oblique order which so many bunglers tried to copy. It is well known what great success attended this refusal of the wing at Leuthen, and how, on the other hand, it led to the King's defeat at Kollin. Already we can mark the transition to the dramatic development of modern battles.

The Seven Years' War kindled, at all events

in the Prussian Army, a passionate and truly national enthusiasm in which we can discern a forecast of the Wars of Liberation. Upon its heels followed the great upheaval of the French Revolutionary period, which transformed at one blow the entire existing system of warfare. It brought the approximate realization of the idea of universal service, which Prussia had long possessed on paper, although the resistance of the populace had prevented it being fully carried out in the then existing economic conditions. In France, however, the fearful disorder of the Revolution had so shattered the old Bourbon Army that it had to be constituted entirely anew. Every man was forced to join the *levée en masse* against the invading enemy, under the threat of terrible penalties, and the looming shadow of the guillotine. These terrorizing methods brought together huge masses of men, the worst military material which it is possible to imagine, but who were still hundreds of thousands of human beings through which the enemy must hack his way.

The Prussian and even the Austrian armies were immeasurably superior to the Sansculottes; the Prussian soldiers carried away an immense contempt for the "Katzenköppe," whom they always defeated when it came to fighting. What, then, is the explanation of the loss of the Rhine campaign? One cause was the faulty policy behind all the military operations, which did not fix its gaze primarily upon the conquest of France, but had an eye to a possible enrichment through a slice of Poland or Bavaria. Above all, however, it was the alteration in the conduct of the

war by France which made a decisive victory impossible for the Allies. Even Goethe, than whom no man was ever less a strategist, recognized with the eye of genius the critical importance of Valmy for the history of the world. Truly upon that day a new world stood opposed to the old. How many troops had the Duke of Brunswick? Forty thousand men. Even if he had attacked and beaten the French at Valmy he would certainly have been reduced to 25,000 men before he reached Paris. To-day the idea of taking and holding Paris with a force of that size is ludicrous. The conquest of that vast crater of the wildest passions with such a tiny body of troops would be a senseless notion. Thus it happened that the seasoned troops with all their technical superiority were beaten in policy by the hordes of Sansculottes, who, in those early days, were still very awkward and unserviceable.

As time went on, however, we can trace in them the dawn of a very remarkable improvement. Carnot arose as the *organisateur de la victoire*, and did for France what King William and Roon did later for Prussia. Up to now the fundamentally demoralized regiments of the old Royal Army, wearing the white uniform of the House of Bourbon, had fought side by side with the new National Guard of the Revolution. Carnot realized that these two differing elements must be amalgamated. He combined them both in the half-brigade system, and so founded the popular Army, a democratic host, with the underlying principle that with good luck any one might attain to the highest rank if he possessed real

individual talent, as Hoche, for instance, actually did. Later, under the Directory, the leading characteristics of the new Army Constitution were crystallized, and the manner in which the idea of universal service was limited and falsified is significant of the French *bourgeoisie*. The new law of conscription laid down that every Frenchman was liable to serve, but that he was permitted to buy himself free from this duty by means of a *remplaçant* or substitute. Oriental fellow-citizens organized this commerce in human flesh, and formed the honourable guild of "soul merchants," as they were dubbed in our Alsace.

It is easy to imagine the disastrous reaction of such a system upon the character of the nation and the Army. It is better adapted than any other to serve a policy of conquest and rapine, and Napoleon realized when he became Dictator that no instrument could better serve his ends. It placed him in a position to make good his losses continually, for a popular host of this kind can never be destroyed, but on the other hand the moral qualities of a truly national army, recruited by means of a really effective compulsory service, must always be lacking in such a force. All were not required to serve, for the well-to-do could buy themselves out, and the bulk of the Army was drawn from the humbler folk, and those classes of society who create public opinion in the Press were represented only by the corps of officers. Hence it comes that the Napoleonic period was the time when the educated classes were Chauvinists as a matter of course, and the military enthusiasm of the Parisians reached the

pitch of exaltation. They listened with delight to the accounts of the poor devils in the field who were being slain for the sake of Paris and *gloire*, and they were treated from time to time to a triumph after the manner of ancient Rome, and saw the long procession of prisoners of war trail past the Vendôme Column. It is small wonder that Paris could never satisfy its appetite for war, while it looked upon it as an end in itself, rather than as a means towards the ends of a well-considered policy. We can already see clearly the effects of a really universal military service in altering the temper of the French nation. In words they swagger no less than of old, but deeds do not bear out the outcry. Frenchmen are less greedy for war now that each of them has but one son, and war nowadays means peril for the mother's darling. It was otherwise when the substitute system secured Napoleon against the risk of public opinion proving any hindrance to his yearnings after conquests.

He kept equally faithful to the other fundamental principle of the Revolutionary Armies by allowing no obstacles to be placed in the way of promotions, so that every drummer boy might feel that he carried a Marshal's baton in his knapsack. No Army can exist without a difference being made between the men who serve in the ranks and the men who exercise command, and the cleavage is, in fact, very marked socially; but it is in the exact point at which this necessary dividing line is drawn that we can discern the character of the different States. We have seen

that in the Roman Armies it was placed, according to our notions, extremely high. The officers proper were a very small number of individuals belonging to the ruling families. Everybody under the rank of Captain belonged to the common herd, and the Centurion had no prospect of being promoted to high command. In Armies at later periods the nobility generally filled the posts of officers. The French Revolution, however, proclaimed the principle of perfectly free promotion throughout its Armies, thereby weakening the sense of comradeship and chivalrous honour in the ranks, but awakening on the other hand a devouring ambition; and the chief need of these *condottieri* was a commander of genius, who would be never weary of making war. In practice, however, the constitution of the French Army drew the frontier between the officers and the men at a very high grade of rank. It became a rule that the junior officers should be taken from two widely different classes of persons. Some, who were officers in our German sense of the word, were drawn from the military colleges, the institutions for the higher military instruction, but the remainder had risen from the ranks. The system continues in France unto this day, and is bound to work havoc with comradeship, for a spirit of restless envy arises between the old officers who have worked their way up, and their well-born young comrades. These feelings are not soothed by the fact that as a rule the younger officers, who have received a scientific military training, are the only ones who attain to Staff rank. Thus the dividing line is drawn

in quite the wrong place, because it is only from the Staff-officer upwards that all the officers are gentlemen.

For a character like Napoleon, however, all these conditions were the best possible. He could be absolutely certain that there would be no public opposition to his lust for conquest. His genius could venture upon gigantic military operations which could never have been contemplated with the old Armies and the difficulties which attended the replacement of their losses. He knew himself to be able always to set fresh Armies in the field, and therefore he could display a marvellous audacity in his conduct of the first Italian campaign of 1796. Think of the way in which he turned the enemy in those operations. He marched along the Riviera, crossed the Apennines at their junction with the Maritime Alps, and placed himself eastwards of the Piedmontese and the Austrians. A defeat in that position would have meant the loss of his Army; he fought, in the language of Clausewitz, with reversed front. Later on he entered Milan, still approaching from the east, although he had started from the west. His circumstances warranted such daring, which had indeed been seen before, but only as a rare exception, as when Prince Eugene of Savoy defeated the Lombards in similar fashion, with reversed front.

Boldness of this kind is possible with national Armies, from whom so much may be expected. Napoleon always aimed at the heart of his enemy, the capital of his country. Under him, too, the progress of the battle itself became much more

complicated and more dramatic. He liked to begin with a stubborn volley fire, then as soon as he had discovered a weak point in the enemy's line he directed a heavy massed artillery fire upon it, and under this protection sent forward his reserves, usually composed of the Old Guard, carefully held back until this moment. The withholding of the reserve for a decisive blow was a tactical manœuvre which Frederick had already employed occasionally in his own brilliant manner; Napoleon used it always. Under him the course of the battle was more forcible and more complex. Napoleonic methods of warfare reacted upon his enemies both as a stimulus and for instruction. Scharnhorst and Gneisenau were both his disciples. Gneisenau's dispute with Schwarzenberg in 1814 is indicative of the man, and marks the contrast between the new school and the old. Schwarzenberg wished to make nothing more than a demonstration against Paris, in the hope of frightening the enemy into making terms of peace. Hence the elaborate advance through Switzerland, a turning movement which was expected to perform wonders, although it actually only prolonged the campaign. Gneisenau, however, pointed with outstretched arm towards the enemy's capital; in Paris only could peace be concluded. He recognized aright the spirit of a national Army, as Scharnhorst had created it.

Scharnhorst, too, had learned much from Napoleon, but he had at the same time developed Napoleon's ideas along noble lines. When the battle of Jena taught the Prussian State the

bitter lesson that henceforward the old forms must be discarded, and totally new ones take their place, ninety-nine men out of a hundred would have adopted the French system without modification, even as the Armies of Europe were modelled upon those of Germany after 1871 Prussia had been beaten by the French Army, whose superiority could not be denied. But Scharnhorst was a military genius, and in consequence an originator. He had first seen service in a small mercenary Army, in the English-Hanoverian employ, later he had fought against the *levée en masse* and the troops of the French Empire, and finally in the service of Prussia he had had to do with an Army which was partly national and partly of hired troops. This was his practical experience, though he adopted none of the types for his pattern, but going back to the almost forgotten District Regulations of Frederick William I. he at once brought forward the idea of universal service without any exceptions. He asserted, besides, the necessity of cadres for the Army, which should apply not only to troops of the line, but also to the reserve of time-expired men (*Landwehr*). These were Scharnhorst's proposals, which he put forward first immediately after 1808, but they could not then be put in practice, because Napoleon had forbidden the Prussian Army to exceed 42,000 men.

Scharnhorst had instantly perceived that the substitute system was fundamentally antagonistic to the Prussian spirit. Economic considerations had compelled us to grant exceptions from the rule of universal service, but our nation had

never contemplated that any individual should buy himself off from his bounden duty, and it is significant that in all the long discussions no Prussian officer of note ever recommended that we should imitate this French expedient. Another institution which Scharnhorst knew would go against the grain of our good German customs was a corps of officers upon the French model. The Prussian Army had no use for the soldiers of fortune who rose to prominence in France. Nor was it desirable to allow the corps of officers to be divided into the young educated gentlemen on the one hand, and the old ex-non-commissioned officers upon the other. The mixture of old Captains and young Staff-officers, which Napoleon liked so much, left but little room for the spirit of comradeship and *esprit de corps*. Scharnhorst himself was of humble origin, the son of a peasant, but he had the aristocratic temper which no genuine military leader can dispense with, and he well knew that there must be a line of social demarcation between officers and men; he thought, like Washington, that only gentlemen should hold commissions, and while he discarded their monopoly by the nobility, he wished to create a corps of officers which should be inwardly united by common social standards. This reveals his profound insight into German character. In what do Germans consider that class differences consist? Somewhat prejudiced as we are in the direction of idealism, we instinctively seek them in culture, and every man amongst us can tell the difference between those who are educated and those who are not. Our Civil Service has

insertion into the new regulations for these troops of a modest clause, providing for their employment beyond the frontier in exceptional cases. It soon was evident that the exception must become the rule. Gneisenau had organized the Silesian Landwehr upon a footing which would enable them to take the field, but the war had lasted from May until August before the Landwehr regiments took part in the campaign. The final result was much influenced by the fact of these fresh troops being there to back up the Northern Army under Bülow. They took part in a comparatively large number of skirmishes and battles, but then they had not been worn down by the terrible wet-weather marches of the summer of 1813 as the armies of Silesia and Bohemia had been. Afterwards Bülow's Corps was taken to Belgium for the comfortable winter campaign, and it did not join Blücher in France until later.

The valiant Northern Army had thus been the luckiest in escaping the fatigues of the campaign, and it was here that the Landwehr showed itself to most advantage. This had a decisive effect, for the Chief of the General Staff of this Corps was presently appointed War Minister for Prussia, and from these favourable experiences he formed his sanguine opinion of the efficiency of the Landwehr troops. However, an innovator ought to be optimistic, and it was fortunate in the long run that Boyen did over-estimate the qualities of the Landwehr. Thus within a few weeks, in September 1814, the new Prussian Militia Law was enacted, which organized the

Landwehr as a reserve force which was to consist of time-expired soldiers of the line. The fault of the new organization lay in rating the number of first-line troops at far too low a figure. The line was so weak that it had to be made up from the Landwehr every time it was put upon a war-footing. In 1819 the Army was rearranged so that a brigade of regular troops corresponded to a brigade of Landwehr, and the latter troops were made liable to be called up in times of peace if required for a diplomatic demonstration. This was not an arrangement which could continue very long, if only on account of the difficulties which arose regarding officers, for how was it possible to allow a corps of Landwehr officers to organize itself in peace time, as Boyen had intended? The veterans of the war died off, and the question of the supply of officers became more and more embarrassing.

The achievements of the Army, despite its deficiencies of organization, and the loyalty with which it confronted the trials of the year 1848 are astonishing, and worthy of all admiration. Nevertheless his experience of the mobilization during the Olmütz episode gave the Prince of Prussia much food for thought. The Army had suffered much through the prevalent desire for peace. In 1833 a period of two years had been fixed for military service, a measure from which the Prince had early learnt to withhold his approval. In 1852 the three years' service was legally restored, and through it the stimulus of ambition could be brought to bear upon the rank and file; for it held out to every individual the

hope of gaining an earlier discharge by his deserving conduct. A moral force, for which there is no other equivalent, was thus infused into the Army. The Prince was obliged to postpone the introduction of all the other reforms which he had at heart until he succeeded to the throne. It was then that universal military service was really instituted for the first time. The organization of the Prussian Army in the year 1860 bears a striking resemblance to Carnot's reforms. Its aim was to link the first and the second line of defence firmly to one another. The number of line regiments was increased, and the three youngest Landwehr classes were transferred to the first reserve of the line, which was thereby so strengthened that it was no longer necessary to deplete the senior classes of the Landwehr the moment that the regular Army had to be made up to strength. This brought about a great lightening of economic burdens, which more than made up for increased Army Estimates. Thenceforward the Landwehr filled the subordinate part for which it was designed. Its task and position should not be so interpreted as to impair the technical efficiency of the Army, or to disorganize the corps of officers. The reintroduction of the untested two years' system, with all the increased difficulties and requirements of to-day, would be an experiment all the more fateful because harder to retract. In 1852 the King could vary the time of service merely by legal decree, but it must be apparent to any one who is acquainted with the psychology of our Diets that the Emperor is in a very much more

difficult position, for it would be impossible now to revert without more ado to a previous system on the failure of such an experiment.

There can be no question that the example of the German national Army has had its effect upon the rest of Europe. The gibes formerly hurled at it have all proved fallacious. It used to be the fashion abroad to dismiss the Prussian Landwehr and the Prussian schoolboy army with a contemptuous shrug. Now it is far otherwise. Practical experience has demonstrated that in war the moral qualities of the troops outweigh their technical training, and that increased efficiency in this respect goes hand in hand with moral deterioration of barrack life. The elderly French sergeants did not, as the French had expected, give their troops a superiority over the Germans. We may safely say that Germany has been the first country to grapple seriously with the problem of drawing forth the resources of the nation by means of universal military training, and of giving them efficient value in war. Our Army furnishes us with a peculiar and logical extension of our school system. There are many for whom it is the best education conceivable, and who could ill afford to dispense with the drill, the enforced cleanliness, and the stern and virile discipline both moral and physical, especially in a time like ours when other restraints are so relaxed. Carlyle prophesied that the Prussian idea of universal military service would permeate the world. Almost every great continental Power has tried to copy it since the organization of the Prussian Army stood its trial so trium-

phantly in 1866 and 1870. It was not, however, so easy to imitate as foreign nations assumed.

The Prussian Army system is the nation in arms, and to that extent it is the embodiment of national characteristics and virtues. Three conditions are necessary to its success—a modicum of political freedom, satisfaction with the Government, and considerable latitude in social administration. Furthermore, an instinctive respect for culture is required, without which the institution of the one-year volunteer would be unthinkable. This is designed to make service in the ranks morally and economically endurable for the educated classes. In France the craving for an external *égalité* has barred the way to this volunteer system, but in Germany we could hardly do without it, because, quite apart from the fact that the number of our regular officers is not nearly enough for a war, the young men of education who take commissions in the Reserve and Landwehr at the end of their one year of voluntary service are in many ways more in touch with the people than the corps of professional officers can be, and they form the natural link between these latter and the rank and file.

The heavy burden of universal service can be further eased by a certain amount of decentralization, which enables each individual, broadly speaking, to put in his service in his native province. Our provincial Army Corps have as a rule given a very good account of themselves, and must continue to compose the bulk of the Army, while the Guard furnishes their wholesome counterpoise, in a corps drawn from

the length and breadth of the kingdom, forming a body of picked troops to act as a spur upon the remainder. Our system of provincial Army Corps does not exist in the strictly centralized French organization where Gascon and Norman stand shoulder to shoulder in the same regiment. We, on the contrary, rightly regard local feeling as a strong cement to bind the comrades in a regiment together. A certain degree of national sentiment is naturally presupposed by the idea of universal service if it is to have a consolidating effect. Small individual districts inhabited by alien nationalities are of no great importance, and can be dealt with by a few simple precautionary measures. Austria is worse off in this respect, for there the Reserve officers are the weak point of the Army. They are good Czechs, good Germans, good Magyars, everything except good Austrians, and for this the future may hold a bitter retribution.

Until a short time ago we were ahead of other nations in all these matters concerning military organization, but of late the neighbouring States have so overstrained their military preparations that Germany has seen herself compelled to go yet further, and this time she is following in the footsteps of foreign nations. By the nature of things this cannot go on indefinitely, but in this respect the immense vitality of the Teutonic race will ensure its predominance over the less prolific nations. The French are already dangerously near their limit, but the Germans have still a much greater latitude in the number of men they can call to the colours.

Once more let it be clearly understood what effect these new military formations will have upon the future conduct of war. Generally speaking, their tendency is towards peace, for a whole nation in arms is far more difficult to rouse from its civil avocations to engage in a frivolous war than a conscript Army would be. Wars will become rarer and shorter, but at the same time far more sanguinary. The longing to return home will act as a strong incentive to advance. The feeling which the Prussian soldiery expressed in the summer of 1866—let us press forward quickly to the Danube so that we come home the sooner—is the normal attitude of a brave but peace-loving Army, and the daring tactics which aim straight at the heart of the enemy have become a commonplace of modern strategy. It is not too much to say that when a people can look back upon a glorious military past, nothing is impossible for such a national Army. This is borne out by the experience of our two most recent wars, especially by the battles of Königgrätz and Mars la Tour. At Sadowa we saw fourteen Prussian battalions holding their own against forty-two Austrian battalions, and the French war shows a succession of battles on a reversed front, where defeat would have driven us back into the heart of the enemy's country. Under the national system the problem of sparing the Army is of quite secondary importance in comparison with the much weightier consideration of annihilating the enemy. Here there is no danger from desertion, and the troops can be billeted anywhere.

Even Montecuculi's well-known saying, which was still endorsed by Frederick the Great, that war requires money, more money, and still more money, is now completely antiquated. Doubtless the preparations for modern war entail vast financial means, but during the war itself the invader at least can do without money. He has merely to tap the resources of the occupied country, and can even leave his troops temporarily without pay. When Blücher wrote an order in France for a great war contribution towards the needs of his famishing soldiers, a counter-order arrived from the King, forbidding him to embitter the French too much, and promising that the pay should be sent from Prussia. Blücher replied, "Your Majesty's Army is not a mercenary Army, and if I am not to take money from the enemy, at least let us not be an unnecessary burden upon our own country." It is well known that Napoleon began the campaign of 1806 with a war-chest of 40,000 francs, and our straits in 1813 were much worse, for at the beginning of the war we had only 2000 florins in cash, but we forthwith converted the wealth of Saxony into ready money, and so were able to proceed.

A certain independence of action in the subordinate commands is another essential of national Armies, in view of the vast masses of men involved. General Manteuffel once told me that on the foggy morning preceding the battle of Noisseville he was only able to give quite vague instructions, and for the rest was obliged to rely entirely upon the independence and trustworthiness of his

Generals. The evolution of strategy on a basis of universal service is still incomplete, for the world has not yet seen a struggle between two national Armies. The last great war was the struggle of a truly national Army, first against a conscript Army and later against an improvised militia. The spectacle of the clash between two really highly trained national Armies is still to come. It will be Titanic, and the world will then behold losses and successes on a giant scale. If we also take into account the quantity of new mechanical appliances for war provided by recent invention, it becomes obvious that future campaigns hold many more surprises in store even than the last war between France and Germany.

Modern methods of transport have so important a bearing upon military operations that a State can never possess too large a railway system from this point of view. The rapid occupation of the enemy's territory is of paramount importance, for it paralyses his means of concentration. Napoleon III. made a grave mistake in 1870 in not occupying at least a part of the left bank of the Rhine. In the first place we could not have prevented it, as is openly admitted in the Introduction to the official history of the General Staff, which was probably written by Moltke himself. The movement would have deprived our Field Army of two army-corps.

Therefore the more railway lines leading to the frontier the better; but here, as elsewhere, we must repeat that everything must have its natural limitations, for though railroads do greatly facilitate the massing of troops on the

frontier at the outbreak of war, they are of less value during the progress of the campaign, and it is easy for a single flying column to make one of them useless for a long period of time. Moreover the effectivity of a railway is not unbounded, and only a certain number of troops and munitions of war can be transported daily by its means. Our General Staff calculates that an army of 60,000 men can cover a distance of thirty miles as fast on foot as by train, and it is often more practical for the troops to employ the requisite time in marching. Hence it is clear that the railway can only be used to advantage by troops over long distances, and not always then. If an advance is to be kept secret it must be made on foot, as was shown by Bourbaki's unfortunate move on southern Alsace. He assembled his army on the railway, and attempted to carry it thus to the Vosges. It is the opinion of all our officers that, if the troops had marched, the German outposts would not have noticed the little bodies of men on the western spurs of the range of hills in time. As it was, our vedettes of Uhlans on the heights were able to report a remarkable activity on the railway line in the valley, and General Werder gained time to place his troops in defensive order. The old view, that much depends upon the marching capacity of the infantry, still applies in modern warfare.

On the other hand, opinions have greatly altered regarding the value of fortified places. The days are long past in which every town was a fortress, and when a prolonged war in the enemy's country resolved itself into siege operations. The ques-

tion has already been raised whether fortifications are of any real value at all, and German opinion is far more open to conviction on this point than the French. France erected an immense wall of forts from Sedan to Belfort, and thought thus to sever herself from Germany as if by the great Wall of China. Over a line so extended, however, the engineer was bound to leave some gap which the Germans could not fail to find. There is besides another and still more important consideration. Walls do not defend themselves, and for the effective protection of great fortresses a powerful body of troops is required, who have to be withdrawn from service in the open field. German opinion holds that, as things are, the little *Sperr-forts* (*forts d'arrêt*, so called), are still required, and may be turned to good account. A little fortress of this kind, situated in a mountain pass, can, under certain conditions, bar a whole line of advance against the enemy. Take, for instance, Königstein in Saxony. Impregnable it is not, but it cannot be quickly reduced, and in 1866 the important line of rail from Dresden to Prague was destroyed, and rendered useless to Prussia for the whole of the fourteen days, because it could not be repaired under the artillery fire from the fortress. The Prussian advance into Bohemia was greatly hampered in consequence. The fortress of Bitsch in the Vosges played a similar part, and it appears that these small hill fortifications will continue to have their value.

Large fortresses are nevertheless essential as places of refuge for a whole Army, especially as

enabling a beaten host to shelter and recuperate. Strassburg and Metz serve this purpose, but all our officers agree that the number of such places should not become too large. Many deny their usefulness altogether, for in war the decision always lies in the open field, and there are great drawbacks to every military system which diminishes our strength in that sphere. Fortresses of this size require a great number of troops to garrison them, even when there is no enemy in the neighbourhood. Everything leads us back to the same conclusion, that national Armies are so vitalized by moral force that they can be more relied upon than any others for a daring offensive.

I will, in conclusion, only refer briefly to the Fleet, and to its increasing importance, not for European war properly speaking—because no one now believes that a struggle between two great Powers can be decided by naval battles—but for the protection of colonies and commerce. The domination of Transatlantic territory is becoming the first task of the Navies of modern Europe, for since the goal of human civilization will be the establishment of the aristocracy of the white races over the whole globe, the importance of each nation will ultimately depend upon its share in that Transatlantic domination. This is the reason why the Navy has grown in importance in our own times.

XXIV

THE ADMINISTRATION OF JUSTICE

THE administration of justice is the second of the State's great executive functions, and to every State the scales are as necessary as the sword. It is obviously idle to attempt to establish this necessity upon grounds of national economics, as modern materialists now seek to do. It is a self-contradiction to assert that the State must have an organized system of law because the State is the only protector of money and the value of money. This is a ὕστερον πρότερον, because it is paradoxical to talk of money, or money-value, without presupposing a system of law. Law is not the supplement of money, or devised to protect it, for it is only upon a basis of law that property can be held or trafficked with at all. The exercise of jurisdiction is a supreme prerogative of the State, by virtue of the State being in its essence the people legally united. The right appertains to the State alone, and it cannot renounce it without renouncing itself at the same time.

For this reason, all healthy States whose development is rapid have early centralized the

enactment and administration of law, and the ordering and maintenance of justice. In this respect England is the classical and enviable model. The troubled history of our own Fatherland, on the contrary, has experienced the divided jurisdiction of many petty lords, and has suffered much thereby. Wherever we find the patrimonial system of law existing in a State, it is a sign that the State idea is still undeveloped. In the same way the despatch of legal documents to foreign faculties of law in order to obtain their opinion was a token of lack of political maturity, and Frederick the Great knew well enough what he was about when he forbade his judges to consult other than Prussian Universities on these matters. All administration of justice belongs to the sphere of politics. The verdict of the judge must be in harmony with the history and the spirit of the State to which he belongs; we should never see in practice an abstract law of the schools, resting upon clouds, and having no firm ground beneath its feet. Judicial activities should be more in touch than any others with the developments of knowledge, but they must remain practical also, and in kinship with the institutions of their native country.

The State's administration of justice comprises three divisions. Firstly, there is the supremacy of law, which everywhere belongs to the State and to the highest authority in the State. This supremacy is most natural when vested in the monarch. In a monarchy justice is administered in the King's name, the judge is usually appointed by

him, or at all events the Minister of Justice is the instrument of the Crown in its judicial capacity, for superintending the trial of causes, and in his name likewise the law-officers of the Crown prosecute offences against public order. Thus all justice emanates from the King, who, by his prerogative of pardon, is further able to mitigate the conflict between the stern requirements of abstract justice and the condoning circumstances of the concrete case. The supreme legal function must not be confused with the actual enforcement of the law as embodied in the office of judge. By the nature of things the magisterial functions should only appertain to officials, or to such unsalaried citizens as are invested by the State with judicial responsibilities. The third section of the State's jurisdiction is the pronouncing of sentence. We shall examine later how far it is possible and advisable to admit inexpert opinion in finding the verdict; but the magisterial office should never appertain to any but persons of standing.

We come next to the consideration of some of the leading principles of legal policy, and we find the first fundamental maxim of jurisprudence to be that no one should be withdrawn from the jurisdiction of his natural judge. In an age of class divisions a man's equals are his natural judges—in the old German law every man was tried *per pares suos*; in an egalitarian age jurisdiction can only be vested in the competent Courts. The enduring principle is always equality before the law, but it was infringed by the system of extraordinary Courts of High

Commission which our Kings were empowered to appoint up to the year 1848, and which, at an earlier date, were customary in Germany for trying political causes. There is no violation of principle, however, in the appointment of special tribunals to deal with the cases of particular professions, for reasons of technical expediency. Thus we have Courts set apart for dealing with commercial questions requiring a closer knowledge of mercantile conditions for their settlement, and upon grounds of discipline special military Courts have also been established, which are composed of officers, with the collaboration of a military assessor. These exceptions cannot be regarded as fundamentally contradictory of the axiom that the universal rules of justice apply to all men alike.

The second principle upon which a system of legal administration must be based is that of a publicity of action which will enable every man who is really interested to trace the connection between the sentence and the guilt of the accused, so that he may understand the verdict as a moral necessity. For this reason the Courts of Justice must be open to the public; but here, unfortunately, the misbehaviour of the press works much harm. This is the greater pity because the newspapers are nowadays the principal medium for the publicity of justice. In the Court itself a few hundred persons at most can follow the proceedings, but the press reports are read by millions. Therefore, in spite of the scandalous exploitation of law-cases in the newspapers, we are forced to admit that the advantages of the

system compensate for its drawbacks, but the President of the Court must have the courage to exclude the public—and with them the reporters—from the hearing of indecent cases.

Once the idea of public trials is introduced the demand for them spreads with the irresistibility of a force of nature. Suspicion will always attach, however undeservedly, to the conduct of all cases heard *in camera*, so that the State will be gradually obliged to suppress the practice altogether. This applies equally to military jurisdiction. I personally have no doubt that in this sphere the interests of justice are consulted. The aggrieved soldier will speak much less frankly in open Court than if the proceedings are conducted behind closed doors, where he will more readily find courage to make his confession to some officer in whom he has personal confidence. It is undeniable, however, that once the rule of the public administration of justice is established, exceptions raise universal mistrust, so that finally the reputation of secret Courts suffers directly. It is of no use to try to resist the tendency to publicity, but there must be no tampering with the power of the military tribunal to insist upon secrecy if the interests of discipline demand it. Every Army would be ruined without this provision. Think, for instance, of the trial of Marshal Bazaine; if the dirty linen of a whole campaign is to be washed before the eyes of the world, the spirit of the Army must suffer accordingly. We Germans must always repudiate the idea that our institutions should ever be put, even approximately, to such a use, and

therefore the right must be retained for court-martials to suppress publicity in any given case. Apart from this exception, however, the necessity for the public administration of justice is undoubted and unconditional.

The perfect certainty of obtaining justice is by no means sufficiently secured by the two demands we have named—viz. that no one should be withdrawn from his natural judge, and that the rule of publicity should be established for the hearing of cases; but its most effective bulwark should be the type of men chosen to fill the office of judge. Justice can only be dispensed aright by a body of men who are both learned and independent. The value of a man's political opinions can be best measured by his opinion about the class of men who should be called to perform this service to the State. None of our monarchs have shown more understanding in this matter than Frederick the Great, who was the great jurist among the Hohenzollerns. In the correspondence called forth by Catherine II.'s desire for reform in her Empire of Russia, he wrote to her that everything depended upon the possession of a good class of judges, who should be incorruptible and really learned. He directed his efforts in his own country to the same end. He created for this purpose a respected body, educated by a gradual system of promotion, who should themselves have the training of their younger colleagues on the bench, an arrangement which has become so important for the consideration enjoyed by the whole body of judges. Their salaries under Frederick the Great

were very much higher than they are at present, so that their material position was relatively very independent, and they were men of learning, whose activities in the scientific sphere of their profession were much favoured and furthered by those in high places. Much must always depend upon such encouragement, for as the magistracy is the living personification of the law, it must try to keep pace with the development of knowledge, with which, in a civilized nation, the development of law goes hand in hand. Sound administration of justice depends far more upon the thoroughness of the previous training of the judicial body than upon the letter of the law.

No precautions taken to procure learned and upright judges can, however, be an absolute guarantee for the just dispensation of law. All law is form, and is liable to be ensnared by its own forms, which may become hurtful to the sense of justice. No legal constitution can be protection enough against the *summum jus, summa injuria.* It is a sign of political soundness, and a support for the energetic administration of law, when a nation exhibits a living sense of justice, and a jealous regard for law without being dragged into frivolous litigation. The exaggeration which he loves so well has led Ihering into grave errors concerning this latter point, in his *Struggle for Justice.* In life, as he represents it, our principal occupation would have to be a perpetual disputing with our neighbours, and he waxes enthusiastic over the Englishman who stayed a whole month stuck in Heidelberg on account of a quarrel with a cabman over two-

pence. I could show him greater ideals than this abortive prank of an English tourist. Even in Greek and Roman times heavy penalties had been introduced for frivolous lawsuits. There is quite as much need for a social forbearance which will prevent men from being petty enough to go to law for every little annoyance as there is for the struggle for justice.

Finally, there is another clear demand, namely, that the benefits of the law should be accessible to every one, in practice as well as in theory. In this England is as much behind the Continent as she is in advance of us in other respects. A civil suit is so expensive there that it is only within reach of the rich ; the small tenant cannot bring an action against his landlord, because its costs are prohibitive. This aristocratic distortion of life is a fundamental flaw in the organization of the English State, for it is evident that such conditions are radically wrong, and that where they exist the State will be compelled to intervene to enable the poor to have access to legal proceedings. Justice cannot be healthily administered where access to it is not free to all.

The function of the State in the administration of justice is twofold : it seeks first of all to uphold the law by penalizing the *dolus* of the wrong-doer, and the *culpa* of the well-intentioned. In the second place the State interposes its judicial decision to assert the stability of law in cases where doubt and dispute arise between the citizens regarding the interpretation thereof. Here we have the age-long difference between criminal and civil law. It

is not possible to define it scientifically and unconditionally, and all attempt to do so is simply a theoretical word-spinning. Between the domain of penal law and the law of persons properly speaking there lies a wide border-land of actions for the recovery of damage, known to the general public by the collective name of fraud or "tort." Trade is unfortunately never separable from quackery and deceit, but the question is at what point do these become punishable? Is the limit reached by the posters of certain advertising agencies which announce some manifest new lie daily? It is fraud, morally, if a man recommends me some *vin ordinaire* as a first-rate vintage, but is it fraud in the legal sense? Theory must be content to leave such decisions to practical legislation, for it is not possible to draw a fixed line which shall apply universally and for all time. In considering these questions we must take the historian's standpoint, and remember that it is the business of the State to keep in harmony with the nation's conscience, and to exercise an educative influence upon it. In a time like our own, when swindling of all kinds has increased to so tremendous an extent, transgressions of this kind are particularly harmful to the common weal, and the penalization of fraud has not been extended without good reason. The business relationships and moral conditions existing in the nation must be the lawgiver's final guide in his practical consideration of the question of what is to be regarded as fraudulent and what is not.

It is plain, however, that the penal code and criminal prosecution belong to the domain of public law, and are not the affair of individuals. Civil actions are rightly placed by all jurists within the same public sphere. The question whether this house belongs legally to me or to some one else is a private affair, but whether in the present state of the law I am able to prove my right in Court, or whether difficulties are placed in my way, is a question of the greatest public importance. This is the reason why the whole practical application of the theory of jurisprudence in civil and criminal procedure belongs to the domain of public law.

The penal code has the most importance for the politician. In criminal law the national conscience speaks with its most certain voice, and the lawgiver is obliged so to mete out his penalties as to some extent to satisfy these moral susceptibilities. Naturally this does not imply that they are to be slavishly followed, for if we lay down the rule that only those acts shall be punished which the national morality condemns, we do not thereby forbid the State under certain circumstances to go in advance of the nation in moral development. Take the case of Corsica, for instance, where it is the clear duty of France to call the vendetta methods by their proper name of murder, unheeding of the opinion of the population upon the moral aspect of the question. In a great civilized country, however, that penal code will be so closely bound up with the nation's views of morality that we may call it a crime against nationality if varying

forms of the law are permitted to exist within one frontier. Nothing is so apt to confuse a people's conception of justice as an unequal treatment for criminals. We can realise what a curse particularism was amongst us only a few decades ago, when we consider the fury with which our Rhinelanders struggled until 1848 to keep the privilege of their harsh and cruel *code pénal.* They had no feeling of shame that an alien law should rule on German soil, and equally little did they reck that in Barmen a criminal should be punished who would have gone free in Westphalia, a couple of miles farther east. Uniformity is indispensable to a nation's penal code if all sense of justice or injustice is not to be obscured amongst the people.

Let us first consider the nature of punishment. It is clearly not to be regarded as revenge. The wrong-doer is not punished in order that he may suffer, but he has to suffer in order that he may be punished. The transgression of an individual cannot affect the majesty of the State, therefore there can be no question of the State taking revenge for it. The idea is too foolish to be any longer entertained by anybody. Another sentimental point of view endows the State with the Christian idea that it is wrong to harm our neighbour even if he is harmful, and concludes that punishment is the State's means of defending itself against attacks upon human society. This effeminate notion was the foundation of our modern penal code, promoted especially by Lasker, who supported it with eloquence worthy of a better cause. The folly of it is palpable.

What is self-defence ? Self-defence presupposes a condition of pressure from without which justifies the person threatened in committing an action unallowable in itself. How can we suppose the majesty of the State placed in such a position ? Is fear of the criminal to force it to do something which it has no right to do, and to perpetrate an injustice by cutting off his head ? Here is a confusion of ideas indeed ! What has become of the majesty and moral sanctity of justice ? This is where philanthropy leads us when it forsakes solid ground, but we need not launch serious arguments against such an idea as this.

There is not much more to be said for two other theories, which are equally flattering to the sentimentality and false philanthropy of the present day. The fundamental principle of all punishment by the State lies in its obligation to provide for the security of society. The question to be decided is, what does it aim at in its individual penalties ? Many will answer with Holtzendorff, " the improvement of the criminal," as if the State held a cure of souls, and was bound to search the hearts of its citizens. By its very nature the law is a protection only to the visible order of the common life of men. The State is content with an outward obedience from its subjects ; it may not inquire into the temper with which this obedience is rendered. If this is so, we must not ask it to concern itself with bringing about the reform of all its black sheep. Besides, it is obvious that some punishments are not designed for this purpose ; the death penalty

certainly is not, and it would be hard indeed to harmonize it with efforts for the criminal's improvement. The State is indeed acting in accordance with the ideas of Christianity when it uses its prisons as an opportunity for missionaries to influence hardened hearts, but it is senseless to make the reform of the criminal the real object of all punishment, although it may, under certain circumstances, be a side issue.

It is easier to defend the other theory which holds that the aim of punishment is deterrence from crime, although this effect of it will always remain uncertain. We all know that some are not deterred, but appear before the judge guilty of the same transgression for which others have been punished. But who can tell how many thousands have strangled a criminal thought purely out of terror of prison? It is certain that there are many men so brutish that only this fear can restrain them. Undoubtedly punishment can have this deterrent effect, but its working is problematical, and therefore cannot be the thing principally aimed at. Moreover the State is bound to carry out its sentence, even if quite aware that it will not act as a deterrent.

This leads to the conclusion that the absolute theory of punishment, now regarded by all enlightened people with such sovereign contempt, is in fact the only right one. Here Hegel hit the right nail on the head, and the idea was recognized long ago in our German expression which tells the plain man that "punishment must be." Its necessity proceeds directly from the nature of the State as order. The State, being the

lawful organization of the people, is bound to thrust out crime, and to repair and expiate by means of punishment the disturbance which crime has caused to order guarded by law. The criminal must be compelled, even against his will, to recognize the moral majesty of the State. Ihering has tried to dismiss this view of the nature of punishment as a pedantic shibboleth, but the idea within the words "punishment must be" finds an echo in every human conscience, while the deterrence doctrine is nothing but a bloodless theory. Punishment is an end in itself: it is the expiation of insult offered to the law. Incidentally it may act as a deterrent, or as an instrument of reform, and the more it does so the better for the State, but certainly it cannot and may not do so always.

The public conscience has a direct bearing upon the organization of a State's system of punishments. The taxes, the penal code, and the management of schools are the topics of every ale house, for every man thinks himself entitled to his say on these subjects. Most people have children at school, and take a vital interest in their treatment, while questions of criminal law stir the depths of the national conscience. A penal code must form itself upon the living instinct for justice in the people, therefore the public have a right to inquire whether the existing penalties and their application express the national ideals of what is right and fair. When punishments are too harsh human nature takes its revenge by many unjust acquittals, wherever trial by jury prevails, and the general instinct

for justice becomes incredibly confused. This was experienced in England in the days when common theft was there punished by the gallows; juries felt that the penalty was too severe, and they often solved the difficulty by acquitting the offender even when his guilt was clear as the day. On the other hand, when punishments are too light the masses degenerate visibly.

Thus the adjustment of the penal code stands in a constant though invisible relation to the sentiments of the people. The security of the State, however, must always be the chief aim of all punishment, and therefore its primary standard of measure. There are such things as moral epidemics, which contain a great national peril and require the strongest suppression. A frivolous and optimistic theory held almost undisputed sway among intelligent people about the middle of the nineteenth century, to the effect that crimes of violence decreased in civilized periods, and that crimes of fraud alone gained ground. This seemed to be the case until the beginning of the 'sixties, when the habit of stabbing began. Workmen suddenly took to carrying knives, and the brutal assaults, under which we still suffer, grew and increased. Taste for blood is a terribly infectious thing; it is an epidemic which the State must guard itself against by special measures, and the same applies to the shocking increase of shameless crime in our midst to-day. Thus the injury done to the common weal must be the touchstone of the penal legislation of the State; for since it is not a shepherd of souls it does not mete out its punish-

ments according to the moral estimates of the theologian. It is neither possible nor desirable for the two to be always at one upon this matter. False coining is rightly punished with great severity by every State, and yet from the purely moral standpoint the coiner is rather better than other forgers, because he does not aim at injuring any one person in particular, but at the same time his penalty is made particularly hard, and with justice, because his crime is so harmful to the common good. In this case punishment is measured by purely practical economic considerations.

In common with all else that is human, every penal code must have a final limit, a *non plus ultra* which cannot be overstepped. Capital punishment is thus shown to be necessary on purely theoretic grounds; as being the utmost earthly penalty it becomes the indispensable keystone of every organized penal system. None of the objections brought against it can withstand serious criticism. We blush when we hear it asserted that the State is committing an injustice when it lays hands upon the life of the criminal. The State, which has the right to sacrifice the flower of its youth for its own protection, is to hold the life of a murderer in such tender veneration! Far rather must power be assigned to it to do away with individuals obnoxious to the common weal. Remember also how the death penalty has to be admitted for the Army in time of war, even by the persons who would fain dismiss it with a phrase under normal circumstances. War would

be impossible if a deserter could not be shot forthwith, and yet the deserting soldier may have many moral excuses for his conduct which do not apply to a common assassin.

The Bible saying that authority must wield the sword is deeply rooted in the conviction of the simple man, and it is a transgression against the straightforward moral instincts of the nation to try to make this truth disappear out of the world. The final problems of morality are solved in the domain of practice, not of theory. The conscience of every serious human being demands the expiation of bloodshed by blood; and if this highest and ultimate penalty be not exacted, the plain man will simply fail to recognize the existence of justice in the world. Imagine the case of a murderer, say after the fashion of Jack the Ripper, who has murder in the blood, condemned to imprisonment for life. He escapes, begins his butcheries again, and returns satiated to the same prison, because the State has no power to sentence him to any other punishment. Would not such a State be doing violence to every sentiment of morality? By its inability to put an end to the criminal's career it would be making itself ridiculous and contemptible. Mercy and indulgence, as well as law, must have their final limit, and a point be reached at which the State declares that humanity is possible no longer. An ultimate penalty must be forthcoming, and we find it in capital punishment.

Every argument brought against the death sentence is sheer sophistry, including the famous axiom that the State, the source of all justice,

must not be faced with the terrible possibility of committing murder in justice's name, and of slaying an innocent man in solemn form. It would destroy all instinct for justice in the nation if it were taught that the State was hereby committing an irremediable transgression, and exposing itself to peculiar disgrace. It is obvious that this objection takes far too much for granted, and at the same time proves nothing at all. Of course human frailty makes such a grave error thinkable, but the same argument may be urged against every penalty which the State can impose. Heavy punishments will sometimes fall upon the innocent so long as divine wisdom is denied to the human race, nor will it ever be possible to banish injustice from the world. Are we therefore to argue that there should be no punishments at all? This monstrous conclusion is the only one possible to draw from Holtzendorff's theories.

Thus we come into the cloudland of legal phrase-mongers, wherein all the opponents of capital punishment have their being. They advocate a feeble philanthropy, out of harmony with the healthy moral instincts of courageous nations. Assuming punishment to be necessary, is it really more humane to imprison a murderer for life than to execute him? No human being has ever endured solitary confinement for more than fifteen years without going out of his mind. How is it kinder to kill him by inches than simply to put him to death and leave the rest to God? We are here dealing with matters which are inseparable from ideas of religion, but even persons who are persuaded of the absolute mortality

of human existence are still able to perceive the necessity of capital punishment for the State. How much more, then, should those who know that our life does not end here be prepared to concede to the State what is its own, and commit the rest to God? We men cannot take upon ourselves to be the judge of all; but the task of the State is always the protection of its members, and here the full significance of punishment comes in.

If capital punishment is recognized as a necessity, it is obvious that it must be inflicted for the gravest of all political crimes. Moreover it is false sentimentality to treat political criminals with special leniency. The man who jeopardizes the whole State by high treason is as dangerous to human society as the ordinary murderer. We shall not forget to give to the noble and unfortunate Emperor Frederick III. the honour of having been the means of reinstating the practical application of the death penalty. Except in two States whose sovereigns had strong nerves, it had nearly disappeared, and for a long time no decapitation had taken place. Then came the attempt at assassination by Hödel and Nobiling. The then Crown Prince, despite the gentleness of his natural sentiments which inclined him the other way, showed firmness during his short regency and allowed Hödel to be executed. The step was necessary on account of the moral sentiments of the masses.

This popular sentiment perceived in its *naïveté* what was right. No institution which general feeling condemns as barbarous is ever reintro-

duced. No one thinks of restoring the rack, for the public conscience spoke once and for all when the torture was abolished. The death penalty, on the other hand, has suffered its pleasing vicissitudes because its abolition has been demanded only by the vapourings of philanthropists, and by no moral necessity. The majesty of the State is more clearly recognized in great nations than in the smaller weaker countries, and it is highly significant that Germany is the only one of the great powers where the necessity of capital punishment has been disputed. The French are as aware of its indispensability as are the English, and a witty Frenchman once observed that it would be easy to abolish the death sentence if the murderers would lead the way. In any case, the right of pardon is not intended to do away with existing punishments wholesale.

Our penal system has been too exclusively limited to terms of imprisonment, and this is a matter for serious consideration, because our economic conditions cannot fail to make the deprivation of liberty desirable in the eyes of certain individuals. The State must board and lodge its convicts healthily and sufficiently; but in every civilized State there are unfortunately thousands of honest people who are unable to provide themselves either with a healthy dwelling or sufficient wholesome food, and thus we find the injurious and distorted point of view, which makes that which was intended for a punishment appear to many as an object of desire. Imprisonment as the sole method of punishment is therefore dangerously one-sided, and

the system should be employed in conjunction with others, as, for example, heavy money penalties, which exercise a far more restraining influence upon many fraudulent persons than a few weeks of captivity. Punishment by disgrace has unfortunately been entirely abolished under our modern system. I can see no reason why a swindling stockbroker should not be placed in the pillory, and in fact the sole objection to doing so arises from the particular affection in which the Stock Exchange is held by a certain section of our Press. There are cases in which flogging is a necessity, for some natures are too coarsened to be impressed by anything except physical pain. In the 'seventies the crime of garrotting suddenly became prevalent in England. In the thick fog wayfarers were set upon, strangled, and robbed. The cat-o'-nine-tails had a truly magical effect upon this class of crime, which stopped altogether after the penalty had been inflicted in four cases. Thus it appears that corporal punishment is the only really effective way of limiting some sorts of misdemeanour.

As regards the prosecution of the criminal, the self-evident and primitive principle, *quisque praesumitur bonus*, must not be called in question; every accused person is to be treated as innocent until his guilt is proved, and no one may be compelled to give evidence against himself. The old inquisition system which forbade the judge to condemn the criminal until he had confessed his guilt has rightly been done away with, because its logical result was torture; if

the accused person persisted in obstinate denial the only resource was to subject him to the rack. The whole practice was consequently given up, and convictions were obtained instead by calling witnesses and adducing proofs of guilt, while at the same time the criminal was granted by the State every facility for his own defence. Only once has this principle been infringed, and it has been reserved for the French Revolution to add the violation of it to its list of crimes. It was Danton who declared, amid the noisy acclamations of those who thought as he did, that when society believes its existence threatened, or when the rights of man are attacked, the State has the right to sacrifice innocent blood, lest otherwise the danger should arise of the guilty escaping the punishment they deserve. The results of this axiom are shown in the judicial murders and the ghastly butcheries, which to this day find some admirers upon German soil.

It is clear, from the very nature of the State, that the indictment for crime must be prosecuted as a rule by the State and the agents of the State. This right of accusation, nevertheless, requires limitation in one direction and extension upon the other—limitation when consideration for the feelings and sanctity of family life demand that action should only be taken upon the motion of the injured party; these are what are called private prosecutions. Every one to whom the privacy of home is still sacred will agree that a theft committed within the family should not be dragged before a public tribunal if the father prefers to exercise his right of dis-

ciplining his son himself. Parents should only have recourse to the State's intervention when they feel that the gravity of the offence requires it. At the present day the only difficulty lies in determining accurately where the family ends. In former times it was held to include the whole household, but the relations between servants and their employers, particularly in the towns, have now so completely assumed the shape of a mere business contract, that any mention of a bond of moral piety subsisting between them appears out of place. Evil consequences may ensue if the State is forbidden to prosecute for any kind of domestic theft unless at the desire of the injured person. Some time ago an officer died in a Pomeranian fortress; during his illness he had been robbed by his servant, and at the auction the thief bought in his master's effects with the money he had stolen from him. Every one was aware of it, but the State was powerless to prevent the scandal, because at that time the man could only have been prosecuted upon the demand of his employer, now deceased.

It will never be easy to define legally the limits of the family. There can be no doubt of the rightness of the principle that the State may not intrude without necessity into the privacy of the home. Therefore breach of the marriage vow cannot be punished except upon the motion of the husband. The law used likewise to put offences against the modesty of women in the same category of private prosecutions, so that the perpetrator of the outrage could only be brought to justice upon the accusation of his

victim. This was done with humane intention, but its consequences were terrible, for the victim of bestial lust might simply be paid to keep silence. For this reason these over-sentimental usages were discontinued. It is not right to give too much consideration to the natural feelings of a young girl. Terribly hard as it is for an unfortunate creature to be compelled to acknowledge her disgrace in open court, it is more endurable than that these vile briberies should be permitted to take place in private, and the law be thereby made a mockery by the criminal.

The conception of private prosecutions is thus extremely difficult to define, and it is a matter in which the State must adapt itself to the changing conditions of the national life. It is still harder to determine how much elasticity is required for the rule which limits criminal prosecution to the State and its functionaries. In England, until lately, it was the law that any accidental witness of a crime could be compelled to bring an indictment. This practice originated before England possessed any organized police, and it is evidence of the firm and lofty sense of equality which has ever animated the English within their own borders. But such usages belong to a more primitive society, and even in England public prosecutors have lately been appointed to act as plaintiff in certain cases on behalf of the Crown. With us, on the other hand, complaints have been raised in the Radical camp against the so-called monopolizing of the right of indictment by the law officers of the Crown, and it is claimed that, in view of the possibility of

a partisan prosecution, any private individual should have the right to appear as accuser. This view took shape in the years which followed 1848, the golden age of public informers. So many wrongs had been perpetrated at that time that the public prosecutor became the tool of numberless private animosities. A typical case was the trial of Waldeck, who was, as a matter of fact, quite innocent.

Therefore the demand which arose at that time for an unrestricted right of indictment was prompted by sincerity and easily defensible. Nevertheless its drawbacks must not be overlooked. The Romans had placed no check upon indictments, and an odious system of delation was the result. In England, in the reign of James II. [*sic*], the professional informer, Titus Oates, brought thousands of persons to ruin. In our own country the so-called "revolver Press" has wrought untold mischief. If a crime is attributed to any individual a newspaper article is hurriedly composed, and a proof sent to the incriminated person, who is then compelled to purchase its suppression. There have been Viennese journals which subsisted on the proceeds of this traffic only. Therefore terrible abuses may arise if the right of public accusation is accorded to each and all, and the only way out of the dilemma is to adhere to the rule that a charge can only be brought by the public prosecutor. If the right is indefinitely extended to the public the result might be disastrous. We cannot go further than to say that in certain serious cases individuals must share the privilege

concurrently with the State, but only under strict limitations, as the danger of abuse is too great to be run. A severe penalty must be imposed upon frivolous prosecutions, as the mere bringing of a charge carries with it a certain amount of injury to the accused person. Upon the whole our public prosecutors may be said to be only too unwilling to follow up political offences.

The further question then arises of how the proceedings against the accused may best be conducted so as to bring his guilt vividly home to the moral consciousness of the community, so that the sentence may not fall like a bolt from the blue. For this is required not only publicity of criminal proceedings, but also the collaboration of unprofessional opinion in finding the verdict. The introduction of juries into legal proceedings is a concession of the modern State in order to assure to the Courts the confidence of the public. The German magistracy has ever been distinguished by the devoted zeal with which it has discharged the responsibilities of its office, but it has sometimes been conspicuously lacking in adaptability. It is also remarkable that trial by jury, once regarded as the palladium of liberty, has in recent times become unpopular, particularly in North Germany. It has found more favour in the bureaucratic south than amongst the liberty-loving people of the north. That fact, that our southern States have a blunter sense of freedom, belongs to the category of truths which ring in the ears of our average hand-to-mouth politicians like the ravings of

lunatics. Bavaria has no local government at all, but instead of it a modified form of the Prefecture system, differing radically from our Prussian administration. Individual freedom is given much greater scope in North Germany than in the south, where Napoleonic methods struck deeper roots.

If we inquire into the history of trial by jury, we find that the practice originated in England, although it does not go back to the ancient Anglo-Saxon times. It used to be supposed that "the good and just laws of King Edward" provided not only for the jurisdiction of the Communal areas, but for trial by jury as well. According to the researches of my friend Brunner, however, juries were introduced into England from Normandy, and would therefore seem to be of Frankish rather than of Anglo-Saxon derivation. Our old German procedure is purely conventional in type, for it does not aim at the definite establishment of concrete facts, but is content with producing a specified number of witnesses. The etymology of our word for conviction (*Überzeugung*) is evidence of this point of view. In England, juries were primarily a body of twelve reasonable freemen, equal in standing to the plaintiff, who pronounced a sworn opinion upon the evidence laid before them. This system was subsequently incorporated into criminal procedure. To-day, juries are admitted by common consent to be either useless or even harmful in civil proceedings, but it is an historical fact that they were first of all employed in cases of this kind, and were not used in criminal trials

until the thirteenth century. This development was hastened by the Latin Council of 1215, which prohibited the appeal to divine arbitrament by means of single combat. This latter was also a Germanic form which provided that God Himself should adjudicate if a sufficient number of reasonable men were not forthcoming. The conciliar prohibition abolished this old method of allocating guilt, and it became all the more convenient to adapt to criminal proceedings the methods of proof till then peculiar to civil courts.

Ever since the thirteenth century trial by jury has had a magnificent development in England, where it is closely bound up with popular ideals, and regarded as a pillar of English freedom. Two circumstances have powerfully contributed to this result. Firstly, the unique social and economic position of the judges. Judges of the highest grade are few in number, but they enjoy an almost princely consideration, and travel about the country holding Courts of Assize. The exposition of the law involved in the judge's charge to the jury has a powerful influence. Their powers are extremely great, and a judge may send back a jury to reconsider their verdict if in his opinion it is unreasonable. Secondly, English judges are obliged to observe a reticence which is well suited to enhance the dignity of the Bench, while French judges take up a hostile attitude towards the accused and endeavour to elicit a confession of guilt, thereby running counter to all judicial impartiality.

To these extensive powers of the presiding judge England alone adds the further feature of

the jury's unanimity, for which the French, who adopted and mutilated the English jury system at the Revolution, have substituted the verdict of the majority. The English practice is undoubtedly the only right one; majorities are as incompetent to decide judicial as religious or scientific problems. The question whether A has murdered B cannot after all be settled by the weight of numbers. In spite of its harshness the demand for unanimity is sound, for in it strength of character finds scope. It constantly happens that an individual juryman decides the waverers by force of his own personal conviction. Englishmen have clung to this principle till this day with a tenacity which does them honour. We, on the other hand, have much too great a regard for that kind of moral cowardice to which the jury system gives so much opportunity. It is far too pleasant, to many people, to allow themselves to be overruled, and such characters may be found everywhere, but most of all amongst the very people who pride themselves upon their independence of mind. The temptation to say "no," with the secret hope of being outvoted, is a moral danger to which jurymen are especially exposed. Therefore the stern English rule of unanimity is thoroughly justifiable.

This maxim, then, together with the powerful influence exercised on lay opinion by a highly esteemed body of judges, are the two causes of the historic respect paid to the jury system in England. For our misfortune we in Germany did not receive this institution direct from thence,

but imported a distorted copy from France. We have laboured to adapt it to some extent to our own conditions, and are now beginning to deviate from French models, and to strike out a course for ourselves in criminal procedure which is nearer to the English conceptions. Thus we also have come to perceive that in these matters political freedom is not the point at issue, and men of integrity can only remember with shame that German Liberals of the older type attributed to juries the right of abrogating the laws.

The only question is, whether the co-operation of laymen is needful to the course of justice, or whether it merely does harm. The points in its favour are obvious at once ; average men believe that a verdict will be more reasonable when non-professional opinion has been consulted, and that the expert often lacks the experience of practical life which is important in coming to a just conclusion. These are undeniable advantages, balanced, alas ! by grave drawbacks, one being that jurymen are very apt to be swayed by sheer sentiment, and another the danger which always threatens the amateur. With regard to the former of these points, it is not correct to say that juries are always more prone to acquit than trained judges. The majority of cases does support this contention, but there will always be trials in which juries will bring in too harsh a verdict because they feel that their own social order is threatened. Social-democrats, for instance, would run great risk of such treatment, as was shown by the notorious Leipzig Socialist trial of 1870, when the social-democrat was condemned

upon evidence which was really insufficient. A bench of competent judges would hardly have done such a thing, but ordinary men, trembling for their property, cannot fail to be partisan when confronted with such a party.

Generally speaking, the inclination of laymen is to give weight, not only to legal considerations, but also to a number of others which appeal more specially to sentiment. A judge is therefore often placed in the awkward and humiliating position of pronouncing a sentence from which he personally dissents. It is always difficult for the untrained mind to grasp the distinction between objective law and subjective morality, and to perceive that a legal crime may be condoned by conscience. Amongst many examples let us choose one which is typical of the mentality of juries. When Louis Napoleon played his first prank at Strassburg, and tried to suborn the garrison, the conspirators were caught red-handed. The thing was patent, although Louis-Philippe thought it politic to pardon the ring-leader. His accomplices were tried before a jury who were sworn to speak the truth, and yet pronounced them all innocent because they thought it unjust to convict the accessories when the principal had been excused. That was not their affair at all, but such is the logic of laymen.

We have still to deal with the second drawback—amateurishness. It is no more than an empty phrase to say that questions of fact are for the jury, and questions of law for the judge. The guilt is not so easily separated from the act. Every finding of the jury must deal with three

questions: Was the act committed? Was it committed by the accused? Thirdly, was it committed by him in a criminal manner? This third point involves a whole group of legal problems, even when the issue is of the simplest. Let us suppose that some one has signed a publication by an assumed name. It may only be a bad joke, it may belong to the vast category of offences described as nuisances, but it may also amount to falsification of a document, and to determine this point it is necessary to settle what constitutes a document, which only a lawyer can do.

The penal code risks most at the hands of the amateur. It is an advantage for any science to possess a technical terminology quite different from that of ordinary speech. Chemists and astronomers share this enviable privilege; they employ terms of art unfamiliar to the general public—"chlorine," "bromide," etc., are words with which the layman dare not meddle. On the other hand, such words as "intention," "purpose," "responsibility," "negligence" have a distinct significance in penal law, and compose a scientific vocabulary in the true sense, but are also constantly used in daily life in a general and colloquial sense. The layman fancies he understands their meaning when he really does not, and half-knowledge has always been the worst enemy of truth in every department of intellect. Its dangers are well known to those who have studied or written the history of modern Germany, and nowhere has the amateur played a greater part than in the jury system.

The last factor which must be reckoned with is class prejudice. The prosecution has justly been given the same right as the accused, of rejecting individual jurymen whose impartiality they have reason to doubt. Significant is the opinion of an old and learned counsel, who once said to me, "I always strike all doctors and lawyers and shopkeepers off the list, but old soldiers suit me exactly." Lawyers always think they know better than the Court, doctors assume that all crime is due to insanity, and shopkeepers generally have an elastic conscience over questions of mine and thine, whereas an old half-pay colonel can keep a whole bench of jurymen in order with a look of command when they begin to waver.

Taken all in all, we must recognize that the modern form of lay co-operation in criminal procedure is not very successful. It is either too much or too little. The jury alone decide the so-called questions of fact and guilt, but they have nothing to do with the degree of the penalty, which is determined by the learned judge only. Thus proceedings which should be one connected whole are divided into two parts. This drawback is overcome in practice by the presiding judge's wide powers of instructing the jury, and a certain degree of influence is thereby ensured to him in questions of fact and guilt. None the less it remains true that the share of laymen in criminal trials goes either too far or not far enough. Broadly speaking, it is evident that our modern criminal practice is quite indefensible, and that it lives from hand to mouth without

any guiding principle whatever. These questions were only half hatched when the rules which are still binding were laid down. These are the result of innumerable parliamentary compromises, of which the Lasker motions are instance enough. We only employ juries to try grave offences, and the mass of petty offences are tried at the County Court (*Landgericht*) before experts, without any form of lay co-operation. The most trivial offences of all are dealt with by a single magistrate, and, in order to prevent tyranny, he is surrounded by a whole crowd of Assessors (*Schöffen*). This is pure makeshift. There can be no reason why the mass of medium offences should be tried without juries, while the gravest and the pettiest crimes are tried with them.

We shall probably sooner or later adopt some form of trial by Assessors (*Schöffengericht*) by which the technical knowledge of the judge will be called in to influence the decision on points of fact and guilt, while lay opinion will also be consulted in the fixing of the sentence. We need not fear that these Assessors will allow themselves to be intimidated by the judge, for experience shows that a wholesome, strong, sometimes even too strong, self-reliance is the rule among them. If they were called to sit with judges in a Court of Justice they would find their proper level. They would take counsel with the judges upon an equal footing, and not as rival forces, and there would be an interchange of mutual advantages, the learning and technical knowledge of the judge and the worldly experi-

ence and practical ability of the non-professional element would both contribute towards an equitable sentence. Consultation would infallibly reveal the superiority of the expert, even if the lay element were allowed a slight preponderance in these Courts (*Schöffengerichte*).

In civil procedure the State only intervenes to restore, by judicial pronouncement, a right violated by one or other of the litigants, and only concerns itself with doubts or difficulties concerning the interpretation of law. In this sphere, therefore, lay co-operation is of such doubtful advantage that it may be called positively pernicious in a well-ordered State where the magistracy commands the confidence of the public. Even in England this co-operation is very much restricted. Without a legal training it is impossible to judge questions of civil law, and besides this, the practice of the Courts in these questions has altered so much, and the law has become so complex, that the taking of lay opinion in civil suits can only lead to mistakes.

In dealing with the momentous subject of civil procedure it is of vital importance to understand correctly the place assigned to advocacy by the law. Prussian legislation used to be imbued with suspicion and dread of the legal profession. This was prejudice, no doubt, but prejudice which we honour our Kings Frederick William I. and Frederick II. for having shared. It led to the strictest supervision of the whole body of lawyers, who were regarded as State functionaries, and only allowed to practise their profession within the limits of a definite locality.

Taken all in all, it must be admitted that this old system was much better than the so-called freedom of practice allowed to-day. Strange indeed have been the results of this vaunted free competition. Free competition in the domain of intellect has always been a delusion. It may be valuable as a stimulus in the market-place, but it is a more dubious advantage to the stage. Our drama was better served in Berlin when we had only one Opera-House and one Play-House, and a couple more theatres besides. Remove the restrictions upon the right to open private schools to-day, and there is no saying who might not venture to undertake the education of the young. One cannot help smiling grimly at the thought of all the Socialist scum who would immediately open schools. No thoughtful man could seriously welcome such developments. In like manner the legal profession must be restrained from using their technical skill to fleece the public, and must be made to conform to the exigencies of public policy. Contemporary effort is directed with more or less success to correcting former errors, and it is very gratifying to see the Assessors' Courts of Honour (*Ehrenkammer der Anwälte*) doing their utmost to restrict the worst abuses. When we remember the Heinze trial (1891) we realize that our bygone kings had good reasons for keeping a tight hold over lawyers.

This view, though right in itself, very soon caused the advocate to be regarded, under the older procedure, as a fifth wheel to the coach. Upon the whole the tendency in the eighteenth

century was to regard civil suits with disfavour, and prevent them as much as possible. Hence all the voluminous casuistry of Prussian Provincial Law (*Landrecht*) to which Savigny rightly objected that pregnant brevity should be the first requisite for every code. The functions of counsel were so confined under the old law that in every case the judge had to adopt the standpoint of either litigant in turn. This old method was too complicated, especially under the system of written pleadings, and finally proved to be a physical impossibility. The demand made upon the judge at that period was beyond the power of man to fulfil, for every advocate who has pleaded a cause for a certain length of time undergoes a real change of sentiments, and at last becomes so identified with it that he is no longer capable of impartiality. Modern procedure is quite different. The judge now lets counsel speak or write without hindrance, and only settles the order in which evidence shall be taken. His function is therefore of a purely formal nature, and the parties themselves decide how their case shall be conducted, while he remains to form an independent opinion. This change marks a distinct advance upon previous conditions.

XXV

PUBLIC ECONOMY

We know already that it is foolish to speak of the State as absolutely unproductive economically, because without it and its law, trade and commerce could not exist at all; but, on the other hand, the work done by the State is not of a kind to be measured by economic standards. The ideal blessings brought by law and order, the tokens of the visible power of the State, cannot be valued by their money's worth. It is impossible to compute in these terms the benefit which it is to be a Prussian and to live under the protection of the Prussian State. The favourite saying, that the State creates unembodied wealth, makes no difference to this truth, for it is only degrading to spiritual and intellectual labour to describe its result in these words. It would be admitted by most people that Goethe's *Tasso* cannot fairly be so described. Where do we find the unembodied wealth which an unfortunate but inevitable war brings to the State? What were the abstract values gained by France in 1870 and 1871? No more than a certain amount of self-knowledge, at the most. Therefore it is quite wrong to apply the same standards to the

State as we apply to private property. The individual tax-payer, thinking only of himself and his private budget, is justified in reckoning the taxes he pays among his costs of production and in opining that the fewer taxes there are the better; but the politician who surveys the State as a whole can by no means share this view; for him the question is not of how much does the State do for each of its citizens, and how much has each one of them to pay back in proportion, because this would lead to the conclusion that the pauper in the workhouse should contribute the most because he owes the whole of his physical existence to the State. The person of private means, on the other hand, who only cuts the coupons off his foreign bonds, receives very little from the State, and would consequently be expected to pay very little.

This way of reckoning is absolutely false. It is wrong to start with the idea that the citizen shall repay the State, through the taxes, for benefits he has received; the proper way of looking at it rather is that it is the duty of all citizens to contribute, according to their means, towards the collective costs of administration. Because the State is the people legally united, it becomes both its right and its duty to draw upon the resources of its members for its own maintenance. In the last resort the wealth of the nation is identical with the wealth of the State, and when two States are engaged in a life-and-death struggle the national assets decide practically which of the two can hold out the longest.

Here once more, however, it is impossible to lay down clear scientific rules. Questions of taxation may undeniably present such contrasts between the financial resources of the people and those of the State that the expenditure and undertakings of the latter may rise very markedly during a period when the income of the nation is sinking; this happens during every war. Therefore no rational relation between the two can be fixed, although the rule will always stand that the State must demand of its subjects upon compulsion the revenue required for its activities which are above all price. The modern doctrine of finance is right to this extent when it calls the State an economic tyrant, but the expression is dangerous, because it leads so easily to the conception of the State as concerned only with economics. The State is not what so many of the teachers of political theory would make it appear, the collective profit-sharing association of individual private associations. The State, as such, is not a money-making concern, but it encourages its subjects to make fortunes. It is a corporation, which as a rule resorts to compulsion for the satisfaction of its economic requirements, because it is not in a position to offer a specific return to the individual citizens. The revenue of the State differs from all private finance by reason of the law which obliges it to regulate its income by its expenditure, and not *vice versa*. The proverb which bids us cut our coats according to our cloth can never apply to the State, and for it the first question must be, How much is required to maintain its established

position in the world, with due regard to the claims of its Constitution and its civilization? It is only after the outgoings have been thus determined that it becomes possible to consider regulation of the intakings, and to decide what method of raising the indispensable sum will do least harm to the economic activities of the nation. The English are not nearly so thrifty as the French, or even the Italians, but they do understand the art of producing more than they spend. We must not start from the assumption that the State should only embark upon absolutely necessary expenditure, for very often its scruples over needful expenses are quite as foolish as extravagance could be. Prussia was plunged into dire catastrophes as a consequence of her false economy before the year 1806.

The attitude taken by any average man towards the administration of revenue by the State is the test of his political understanding. Let us recall the years after 1815. It was quite a new light to the inhabitants of the miserable little States who had had the good luck to become Prussian that the State could make serious inroads upon their purses. This was the cause of the universal outcry among the good Swedes of Pomerania and the good Frenchmen on the Rhine. Political literature of that date is absolutely astounding in its ignorant dilettanteism; the only exception was the Rhinelander Benzenberg, the friend of Hardenberg. He defended the Prussian Customs Law of 1818 in his book upon *Prussia's Finance and New System of Taxation* (*Preussens Geldhaushalt und neues*

Steuersystem), in which he was the first to raise the question, What does our State really require? He took the intelligent point of view, but his contemporaries thought his ideas servile, and talked at random themselves, although there were shrewd and prudent men among their number. A true Prussian patriot like David Hanseman, leader of the Rhenish Liberals, a first-rate financier, and afterwards the founder of our Discount Company, tried in his book on *Prussia and France*, published as late as 1833, to prove the ridiculous statement that France is more cheaply governed than Prussia; then he simply struck out one-third of the administrative expenses and declared that the process must be carried further.

We start then from the principle that the revenue of the State must be in conformity with the needful expenditure, and it now remains for us to consider what the sources of its income are. The outgoings in every State depend upon its aims and desires, consequently its income must be here our chief concern. Clearly it cannot hope to supplement it to any great degree by its own direct economic activities. No doubt it is an advantage for Germany that her State still holds a fairly large extent of territory, while the large States of Western Europe have lost their Crown lands through the extravagance of the monarchs and the ensuing civil wars. In Spain, France, and England these lands have totally disappeared, but Germany has always kept a Crown property, which is still very considerable, and although infinitely too little even approxim-

ately to cover the costs of the State, is great enough somewhat to lighten the burden on the tax-payer.

The more the old methods of barter were replaced by dealings in money, the less the importance of the old Crown lands became, and the more necessary did a system of taxation show itself to be. The government of these territories also required reforming as population increased, for the local government through territorial officials became harmful from the moment that speculation in agricultural land began and the officials came into conflict with the direct interests of private owners. An attempt was first of all made under the Great Elector to bring about some arrangement between the Government and the lease-holders of the domains. By it the officials were given a personal interest in the prosperity of the Crown estates, and this led directly towards the new plan, universally in force to-day, of farming out the land.

This led to the belief, which was undisputed in my youth, that the final consequence of these events would be the sale of the domains, because in no department of agriculture could the State compete to advantage with the private person. This conclusion is as false as the other which makes men suppose that because wars become shorter and rarer with the increase of civilization they will soon cease altogether. When it is a question of some bold speculation, or the rapid seizing of a favourable opportunity, the State official who has no personal interest in the matter will be less effective than the man whose own

profits are at stake. On the other hand, where punctuality and order are the chief consideration, the State will always be a better administrator than the individual. No objections can be raised on grounds of national economy to the plan of a sound system of leasing, provided a part of the domains, particularly in the less cultivated provinces, is turned into model farms. The farming of large areas under one management, as is done in our north-eastern provinces, is unquestionably an abuse, and could be ameliorated by the State breaking up its large estates and leasing the land to small settlers. There is no reason at all to recommend the sale of the Crown lands, since they are a nest-egg for the State and a saving to the tax-payer. The growing energy of the State-idea within the last decade has displayed itself with regard to them, for in the 'sixties the demand for the sale of the domains was always being brought forward in the Chamber, while nowadays it is never referred to.

There is one great department of agriculture in which the technical superiority of the State is evident; namely, in forestry.

Since forest land is always more backward than arable in its economic development, it follows that it must also lag behind in the forms of its administration, which may continue to be suitable to it long after they have been discarded for agricultural land. Intensive cultivation is only possible on relatively rich soil; forest land, on the other hand, is intended by nature for extensive cultivation, therefore the management on a large scale by the State in forestry is necessary

and usual. The long period needed for the growth of high forest, sometimes as much as eighty years, constitutes another reason for State ownership, since the private individual cannot undertake this most productive kind of forest-cultivation unless he is unusually rich. It is suited to the undying State, but the private owner will always be tempted to cut down his forests in times of temporary financial embarrassment, and to resort to the cultivation of underwood, which is too frequently harmful. Even communities are worse administrators than the State in this respect. There are woods on the left bank of the Rhine which, to be sure, are still very extensive under this kind of ownership; they consist, however, of underwood intended for the purpose of having its bark stripped and used in tanneries. These woods are now being well administered by the communities which own them, but only under the State's supervision.

Our beautiful left Rhine bank has been the very means of showing us what may be the fate of forests left to unskilful hands. The French are like all the Latins, without understanding either of the beauty or the management of woods; they have always been bad foresters, and on the Rhine they demolished wholesale the glorious woods on the heights of the Hunsrück and the Eifel, which once deforested cannot so speedily be replanted. To this day we are still forced to work hard to repair the damage done. I have already spoken of how the peasants of the Moselle valley have still to suffer from the heights above their vineyards being now bare of the mossy

forest soil which absorbs sudden falls of rain or snow. Thus it comes about that the prosperity of whole districts depends upon the administration of forests, and we may lay down the rule that the State alone is capable of safeguarding their future, and of training a body of reliable and technically instructed officials. In this way it can also indirectly protect the interests of privately owned forests.

There are other trades besides which belie the doctrine formerly laid down by the Manchester school of the State's incapacity to conduct business of any kind. The manufacture of the coinage is one great industry which presupposes an unquestioning confidence on the part of the public and of other countries. It is not necessary to demonstrate that the Mint must be under the control of the State. The same applies to Posts and Telegraphs, and State railways may also become a necessity in the public interests. The postal conditions in Thurn and Taxis under the old German Empire, and up to the time of the German Confederation, show us what may happen if this department is left to private enterprise. These Counts, who had "torn and taxed" Germany for so long, looked upon the Post-Office merely as a milch-cow, but the State thinks less of financial gain than of facilitating intercourse. State-owned railways make the encouragement of communication and the opening up of whole districts their primary object, and money profits have to take the second place. We have ourselves had an instructive experience in the matter of the postal

system. The North German legislature removed the strict monopoly of former days, but the Imperial Post-Office committed the mistake of making the postal rates in urban districts much too expensive, so that rival companies arose, who carried letters much more cheaply, but were never able to train their employés to the standards of honesty and punctuality kept by the officials of the State. The whole arrangement was a make-shift, not a benefit, and only arose because the rich State Department of Posts was too stingy to meet the public half-way in their perfectly justified demands.

We see then that the State should have relatively little direct participation in trading concerns, outside of those which it keeps in its own hands, and that the modern State-finance is at bottom State-taxation.

Here we open a subject which cannot be approached without depression, for in no other do the limitations of the human mind strike us with more overwhelming force. Let us admit, once and for all, that a really good tax is an Utopian dream; all taxes are evils from the standpoint of the private exchequer, and evils they must remain. Nevertheless, as we are none of us private individuals and nothing more, we must all sacrifice something for the common good. On paper no tax is good, and the only thing to be done is so to arrange the fiscal system as to make it as little oppressive as may be. There are doctrinaires who would set higher aims for it, by trying to use it to adjust the inequalities of wealth by making the rich

relatively poorer, and the poor richer, but all this is purest moonshine. Frederick the Great found the idea attractive at one time, but he was far too wise to put it into practice. Human imperfections bar the way at once, and the State must rest content when it has approximately succeeded in distributing taxation so that no individual is poorer in comparison with his neighbour than he was before. It is vain to strive after a redistribution of property by these means.

We have seen that the taxes are not to be regarded from the standpoint of the *do ut des*, and that they must not be looked upon as remuneration for services rendered by the State. The means by which the State chooses to cover the cost of any public undertaking are a mere question of expediency, and not at all of law. If it constructs a road it is at liberty to pay for it either out of its own resources or from a special highway rate. It is the same with education, for this is a matter which concerns us all equally as citizens. Special fees, however, should be collected from persons who receive direct individual benefits from the State. Lawsuits are a case in point, if only to avoid the unnecessary multiplication of them, but in every instance the State reserves to itself the choice of extracting the costs from the defeated party, or of bearing them itself. The whole system of stamp-duties constitutes an exception within the fiscal system. The payment of taxes, politically speaking, is part of the common obligations of all members of the State, therefore the taxable capacity of the

citizens must be the sole standard for the guidance of the State in this matter. The greater the capacity of the individual, the greater should his share of the burden be.

It is at this early stage of the argument that the factor of human frailty comes in. How is the taxable capacity of the individual to be discerned accurately through the labyrinth of men's lives? The economic circumstances of persons living in apparently similar conditions may vary very much; two officials may be living in the same town upon the same salary and yet not be upon the same footing, for one may be a bachelor, and the other the father of ten children. We have to deal with a variety of individual conditions, in face of which any fiscal system must always seem too rigid. It would be folly therefore for the State to seek to standardize taxation, for nothing could bring the natural injustice of every scale more clearly into view. The State must not be like the vegetarian who offers only one kind of food to the human body which requires nourishment of many sorts.

In every civilized nation there is far greater need for a complicated system of taxation. There must be different kinds of imposts, because no one of them can distribute the burden justly by itself. On paper it seems unreasonable that one person should pay income-tax and property-tax, and land-tax and tax on his business, all at once, but nevertheless in practice this is perfectly right, for they thus collectively counterbalance their respective imperfections that the one-sidedness of them all can to some extent be

modified. It is impossible to devise any tax which has not some moral or economic imperfection. Taxation, direct or indirect, must measure the capacity of the citizen by two principal standards, the one being the amount of his possessions and his annual income, and the other the sum of his expenditure. The two taken together constitute an approximate valuation of his taxable capacity.

No just estimate can be formed either from a man's income or his fortune taken by themselves. The financial position of individuals depends upon the size of their families, the wealth of their relations, and so forth, but the State is neither able nor willing to inquire into all these circumstances. Taxes are already an evil in themselves, and if they were to carry with them too searching an inquisition into a man's private affairs they would become so distasteful to the nation that the bonds of obedience would be snapped. The English, acting upon an impulse which we cannot blame, took off these direct taxes a few years ago; they preferred a higher indirect taxation to having the privacy of their homes invaded by the State. We are now in the act of reforming our financial system.[1] Our Finance Minister is, regarded from the purely intellectual standpoint, the most efficient member of the present Government; the income-tax is as well adjusted as it is humanly possible for it to be. Nevertheless the State can never make it a single tax, for if the rate per cent were to be raised the unavoidable injustice would become

[1] Lecture delivered in February 1893.

so glaring that it would not be tolerated. In these matters nothing is more dangerous than doctrinairism, whose theories are always proved false and often ridiculous. For years the Radicals maintained that a progressive income-tax was the only true tax, and that it, and it only, ought to be introduced. The experiment was tried in the Canton of Zurich, as far as the Swiss fiscal system admitted of it. The result was the driving out of capital which had been thus intolerably over-burdened. This would be the universal and inevitable consequence.

If this is admitted, the need for a complex system of taxation must be admitted also. Taxable capacity must be estimated first and foremost by the expenditure of the individual, and it is clear this is a much juster standard by which to measure than the standard of income. It will always be the case that the burden of all direct taxation, without exception, can be shaken off by those on whom it is meant to fall, but cannot be evaded by all tax-payers, and not in proportions accurately ascertainable by the State.

We all know that every good man of business reckons his taxes as part of his costs of production, and repays them to himself out of his customers' pockets. In the case of indirect taxation this will be the rule, though here again it is not invariable. It is undeniable that at least a part of a properly adjusted protective tariff is paid by the foreign producer and not by the native consumer. The producer abroad is compelled to reduce his prices and to content himself with smaller profits.

There are endless ways of shifting fiscal burdens, and no human intelligence can foresee what taxes will lay themselves most open to the process. It is only possible to point to certain classes of persons who are not in a position to evade their taxes. We who are officials and men of science are among the number. I should be puzzled to show how I could avoid my fiscal obligations, but it can be done by any one, even the ordinary workman, who has wares of any kind to offer in the material traffic of the world. It is quite undeniable that in the long run the taxes on necessaries of life will be paid by the employers of labour, and therefore the working classes can eventually, even if only gradually, shift a portion of their taxation from themselves. The position of the working class in those districts of England where economic conditions are healthy is an instance of this. Colossal sums are paid in indirect taxes, but they are covered by the price of labour. This much is clear. Some taxes are evaded, but not all, nor any completely, and not in a manner which can be guarded against beforehand.

This is the reason for the perfectly natural advantage of old imposts over new ones, which makes a conservative tendency so wholesome in the levying of taxation. People have become accustomed to the existing system, prices and conditions have adjusted themselves to it, and the distribution of its burdens is usually completed. Thus the old taxes become so tolerable that reforms may have a bad effect in practice, even if they appear correct in theory, and the

legislator himself is often uncertain what their results will be. Remember the duty formerly levied on our meal and meat, and the typical effects of its abolition. Theoretically it was hard to defend, for it seemed quite irrational to tax the primary necessaries of life in the towns. It was accordingly removed, and what happened in consequence ? The shortage in the municipal budgets had to be covered by new taxation and the direct communal imposts had to be increased ; but there was no essential fall in the price of bread and meat. Wages in these towns had gradually risen to a height which took the cost of these commodities into account, so that they had almost ceased to be a burden on the working classes, and the bakers and middlemen were the only people who benefited by their repeal.

The principle of free competition can only be fully applied to international trade. The absolute necessaries of life are few in number, therefore only a small number of producers share in the profits. Our bakers perceived that they would do better by combining to keep prices up to a certain level than by underselling each other. It would be more difficult to do this in the world market, although we have seen such rings formed even there. In a town, however, such a corner is really very easily organized. In this case, therefore, the old tax, because it was old, was more beneficial in its working than the new reform. The same truth is even more patent in the matter of land-tax which is assessed on the sale of the property, so that after some time the repeal

or modification of the duty is apt to be an injustice or a gift to the landowner. These are subjects where radical theories avail less than anywhere, and fact remains that a complex and widespread system of taxation is more just and less oppressive than the imposition of any single general tax could be.

Let us first examine the difference between direct and indirect taxes, and we see that the latter have the advantage, because the payment of them is approximately voluntary, since everybody can deny themselves many of the luxuries which are indirectly taxed, and also because they are levied in small sums which pass almost unnoticed in the household budget. There are many illusions current upon this head no doubt, but the man who underrates the power of illusion in matters of finance has little knowledge of his subject. The mood of the tax-payer is of infinite importance to the State, and it is a very good thing that the plain man should pull at his pipe with unruffled brow and forget that the State has shared his fill of tobacco. Therefore we must not fall in with the Radicals' favourite abuse of indirect taxes, nor call them the special burden on the poor, for their introduction was in reality the dawn of common law. The smaller landowners were not in a position to impose direct taxation upon the nobility, for the Diets would never have sanctioned the measure. It was a fixed principle that only copyholders should pay taxes, and the upper classes were first made to share the common burden by means of the indirect duties. Here in Brandenburg it was

done by the beer tax, which nobody could evade, and the noble toper least of all.

Nowadays to be sure, since the system has become so immensely complex and so widely developed, the doctrinaire is ready with his query whether the millionaire can drink his hundred cups of coffee to the poor man's one. This is the sheerest sophistry, to which we reply that the rich man does not himself drink a hundred times as much coffee as his neighbour, but he keeps house, entertains, and maintains a number of servants; in addition to the necessaries which he thus consumes he has to pay duty on a quantity of luxuries which never come the poor man's way at all—in short, when everything is summed up it will perhaps appear that the poor are hit somewhat harder than the rich, but that there is no glaring injustice, especially when we take into consideration the direct taxes which fall more heavily upon the owner of property.

Indirect taxes have the great primary advantage of sheltering the poor from the danger of an execution on their goods, that most palpable example of the evils attendant upon taxation. Let us imagine the situation of some worthy man who is unable to meet his taxes when they fall due. This is no easy matter for a person without financial resources, and I had been married for several years before I was able to say that my taxes had ceased to worry me. The lower you go in the social scale the harder it is to have the required money ready on the given day, and it is quite possible for a good honest man to fail with his punctual payment. What then

happens? The State proceeds to distrain, and thereby produces an effect quite the reverse of what it desires, for by seizing furniture and the like it lays hands on capital and not on income. This is what makes a recovery of taxes so unspeakably odious; it is only necessary to have some experience of the misery which the collection of them sometimes causes to the poor.

If the levying of these imposts can be made more indirect and less painful, it must be a blessing for the sake of public peace. It is not well for the State to appear to the lower classes always in the guise of a tax-collector; it is far better that the common man should scarcely be aware that he also bears his part of the common burden. People are very fond of defending direct taxation for small householders on the ground that every individual ought to be made conscious of his financial obligations towards the State. Universal military service, education, and taxation are the advantages of the Prussian State, and it is asserted that they must be brought home to the consciousness of the humble citizen. Personally I cannot follow the reasoning. No danger threatens these three great political duties, and it is not necessary to thrust them under the nose of every individual until he has acknowledged the truth of them in words: "I am a taxpayer."

Politically there is a further difference between the two classes of taxes, inasmuch as it is only direct taxation which can be raised in times of war or of distress with any hope of result. With indirect duties it is otherwise; up to a certain

point they will be paid voluntarily. I can deny myself a luxury, and thus refrain from paying a tax, for instance, on tobacco, which at another time I would have paid. In bad times, however, self-denial in these ways is practised on a large scale, therefore good results do not follow on the heightening of indirect taxation. Only direct imposts remain for the State to fall back upon in time of need, and consequently any State whose position in the world may engage it in war has to treat its nest-egg with some consideration. It does not do to put direct taxation too high in time of peace, lest the screw should fail to turn tighter when war breaks out.

The whole political complexion of a government can be judged of by the nature of its fiscal system. As an usurper Napoleon had to spare the limitless egotism of the wealthy classes in France, but his foreign policy was what gave the keynote to his taxation. A conqueror he was, a conqueror he wished to be, and most conscientiously did he keep his oft-reiterated promise of making continuous war. Therefore he made indirect taxation the pivot of French finance. Under his government direct imposts were kept very light, as they continue to be in France to this day. His was the policy of the conqueror, reserving the power of increasing them heavily should need arise. Let us compare with this the policy of Frederick William III. after the Wars of Liberation. The reforms carried out in 1820, which were truly marvellous considering their date, were framed by a State believing itself entering upon an era of lasting peace, and

they embodied at the same time the eminently peace-loving character of the King. Here we find the stress laid so heavily upon direct taxation that it is hard to say whether further increase in this direction would have been possible in time of war. This by itself made it necessary to raise the level of indirect taxation in the German Empire, in order that the bolder and freer spirit which guided Bismarckian policy might to some extent remove the disproportion existing between the two classes of imposts.

If a fiscal system is to be uniform throughout a country, it is clear that the State must keep the ultimate actual direction of it in its own hands. It cannot permit the Commune to impose taxes at will, but it must prescribe by law which duties may be thus levied and which not. Indirect taxes should not be imposed both by the State and by the local authority. It is self-evident that the State cannot allow these bodies to retain the power which it has itself assumed. Neither should the Commune be left a free hand in the matter of direct taxation, or be allowed to make additions to the burdens laid on by the State, without question asked, for this would be destructive to the whole fiscal framework of the State. Every one who knows anything of life is aware that the economic strength of the nation suffers if real income is burdened higher than 4 per cent, but the whole system would be falsified if the local authorities could impose as much more as they liked at the discretion of the city-fathers. There is no hardship for any one if his actual payments do not exceed the 3 per cent

laid down by the reformed income-tax, but conditions would become impossible if it were left within the power of the Communes to add fivefold to the taxes levied by the State. No one can pay 18 per cent in hard cash to the State and the Commune, and some legal definition is required of the imposts which may be levied by the latter without detriment to the fiscal system of the State.

This leads us on to examine the relation between certain direct taxes and various forms of economic production which have to be considered by the legislator. Some taxes restore the original outlay automatically. Communal imposts upon owners of houses or established industries repay themselves by services rendered.

The contribution levied upon a town for the laying on of its gas or water gives a direct and adequate return to the owners of the land and the independent tradesmen. If a man builds a house in the outskirts of Berlin its value rises as soon as gas and water are brought into the street where it stands. The ground landlord and the merchant look upon their Communal taxes as the equivalents of the benefits offered them by the municipality, and have no cause to complain of them as burdensome. But what do we officials get in return for the doubtful privilege of living in the capital of liberty of opinion? Materially speaking, Berlin brings us nothing but charges; we could live within our incomes far better in Marburg or in Bonn. The extremity of unfairness is reached when persons who get nothing but burdens out of the

life of the metropolis are included in its disproportionately high taxation. Officials stand everywhere in the same relation to men who are engaged in industries. When a district builds a new road every landowner can calculate by his waggon-loads how much profit he is receiving from the improvement. The country pastor is much less benefited by it, and it would be unfair to make him share an equal part of its expense. When the reforms in our fiscal system are complete this class of taxes must be given over, as far as possible, to the local authorities, and in return they must yield up to the State income-tax the right of levying general additional taxation.

This simple principle of justice is strongly enforced in England. There the "local visible profitable property" [1] is subject to local rates.

Inexperience led Prussian legislation into grave faults of omission in this respect. The first attempt at framing these laws in 1820 had been preceded a few years before by the new urban regulations.

No one had realized as yet how expensive local government would prove; in fact, the prevailing idea was that liberty was cheap. The same old delusion was cherished about the Constitutional forms of German unity, and it proved as erroneous there as it did when applied to municipal government. Nobody foresaw how much more rapidly and impetuously public opinion would make itself felt through these new channels, nor the irresistible force of the new

[1] Note—English in the text.

demand for better lighting, improvement in the conditions of the poor, and so forth. In addition there were the new direct taxes, from which our income-tax originated later on. These were still extremely unpopular. In the Rhine district, which had hitherto only paid ecclesiastical dues, the right of the State to levy imposts was not admitted, and more outcry was made over it in this the wealthiest province than anywhere else. Thus the State had a great body of passive resistance to contend against, and it was glad when the Communes availed themselves of their right to supply their needs by making their own additions to the class-taxes.

Thus it came about that this kind of Communal taxation attained ever greater dimensions. The well-meaning city-fathers, themselves for the most part owners of house property or established tradesmen, found it convenient to shift most of the burden on to the shoulders of those who were actually under least obligation to carry it. Here lies the weak spot of the Prussian fiscal system. Officials, work-people, all those who derive least direct benefit from the undertakings of the Commune, have to pay a disproportionately large share of the cost, while house-owners and tradespeople, who profit directly by the administration of the town, contribute too little towards it. The State, however, demanded too much for itself from the tax on land and buildings, so that scarcely anything was left over for the Commune. We have now perceived that the tax on income is the due of the State, and the tax on land and industries should go to the

local authorities, but it is hard to say whether this necessary reform can be carried through. A great deal of moral courage is required by the man who would stir up this hornets' nest.

Nevertheless the imposition by the Communes of taxes other than those on land and houses should be forbidden outright by the State, and none more absolutely than the duty on rent, which it is the melancholy privilege of our worthy metropolis to pay.[1]

It penalizes residence in a sanitary house, it penalizes marriage, in short, it is one of the most disgraceful taxes conceivable. There is something to be said in defence of a tax on bachelors, but a duty on rent is a crying injustice. It is naturally very convenient for a municipality, because every well-organized Commune has accurate knowledge of the rent paid for the various houses, and as these statements are rarely erroneous, the advantage for the local authorities is obvious. But when we remember how disproportionately high the rents of little dwellings in big towns are, and must be, on account of the great demand, we say at once that it is inhuman to lay a further big tax upon them. The rent duty cannot be too harshly condemned by any one who knows the moral value of a good house which keeps a man at home with his family in the evening instead of driving him to the gin-palace. The abolition of this utterly harmful tax is an unqualified necessity. The State, as we know, is not a schoolmaster, but nevertheless within certain limits it does aim, and rightly aim,

[1] Lecture delivered in February 1893.

at moral ends in its fiscal legislation. Very high duties are purposely laid upon articles of consumption such as spirits, which are a temptation and a danger to the mass of the people, in order to place a restraint upon the lower classes. Our brandy-tax was necessary on this account, for a reform was certainly required when a man could drink himself under the table for twopence. This whole subject bristles with difficulties, for which theory can only prescribe a few general principles and leave the rest to practice.

Imposition of taxes, however, is not the only way in which the State can attract private capital for its undertakings; it is justified, and in fact bound, to use its credit for its financial ends; it concerns us to be clear on the subject of the justification of the national debt. Even as the modern State was compelled to follow the great revolution in national economics in the sixteenth century, and to substitute money for exchange in kind, so to-day it sees itself obliged to reconstitute its financial arrangements, and to proceed from a currency to a credit basis. It is well known that before the Revolutionary wars France and England were the countries most able to contract a large national debt, as their economic civilization was more developed. During the Seven Years' War Frederick the Great was obliged to have recourse to depreciating the currency, because he was unable to raise a loan. During the war the public had to be content with this bad coin, which was restored afterwards to the former standard. This was a compulsory loan in its crudest form. Even the

treasure which Frederick accumulated during the ensuing years of peace was quickly exhausted during the Revolutionary wars, and Frederick William II. had no means of renewing it by a war loan.

Everything was altered by the tremendous upheavals of the Napoleonic wars, and every State was compelled to raise war loans. They all emerged from the gigantic struggle burdened with heavy debts, and in Germany the opinion naturally arose that this condition was as undesirable for the State as for the private individual. It was thought that Governments should pursue a frugal policy in peace time, and gradually pay off all debts contracted during war. This view finds its theoretical expression in Nebenius' classic work on *Public Credit* (1820). Here the astutest brain among the Baden financiers of his date asserts that the nation's debt is the worm gnawing at the root of the political tree, and that it must be liquidated gradually and as soon as possible.

This Philistine doctrine was echoed by the honest thrifty Prussian officialdom of the old school, and our legislation of 1820 with regard to the national debt started from the hope of paying off all the liabilities of the State by 1860, and the liquidation proceeded upon the lines laid down. Now, however, it became evident that States like France and England, whose debt was far larger than Prussia's, were increasing in prosperity faster than she. England had a bigger debt than any country in Europe, and yet, though little of it was liquidated, her prosperity

grew and waxed immeasurably. Consequently, after the cancelling of Prussia's debt had gone on for a number of years, the old Minister Rother himself grew startled. In 1843 he drew up a memorandum in which he submitted to Frederick William IV. that it was not advisable to continue too long with the paying off of the national debt. By the year 1852 the amount would only stand at 100,000,000 florins, and should not be allowed to sink lower. There were capitalists in Prussia, he said, desirous of finding a safe security for their money, who would place it abroad if opportunities were denied to them at home. Experience had taught this representative of the old Prussian official school of thought the hollowness of every theory. Nevertheless he did not yet perceive that the national debt stood in need of a large increase, for this point of view was too far ahead of the ideas of his time.

In contrast to these theories held by the German official world, we find England and her allies developing an audacious and magnificently frivolous attitude towards their national liabilities during the Napoleonic wars. Their ideas found a very adroit champion in Germany, in the person of Frederick Gentz, who undertook the justification of the English theory. He was the mouthpiece of English policy against Napoleon, and not being scrupulous in his choice of methods he accordingly included a defence of the English national debt, treating the subject with his usual genius, but also with an unmistakable levity. The English theory was as follows : the national debt is not to be regarded as a burden on the

present, but rather as a means of shifting the present burden on to the shoulders of the future. This was the principle, and in stepped Doctor Price, the well-known Radical and the champion of North America, with his discovery of the sinking-fund which was to reveal the secret of how to make a debt liquidate itself automatically. It was a theory which proved only one thing, namely, that mathematical truths may be nonsense in practice. What Price said was this : Let a State raise a loan of a hundred million pounds and put four millions of it aside to form a sinking-fund ; allow this fund to go on increasing by interest and compound interest, and in a given number of years it will have become large enough to pay off the debt. It is exactly the same as the well-known exercise in arithmetic which many of you will remember. Supposing that Adam had lived 6000 years before Christ, and had invested one penny at 6 per cent interest and compound interest, that penny would to-day have produced a heap of gold as big as the globe. This is quite correct as a sum in pure arithmetic, but pure arithmetic does not as yet regulate the world ; and what would the actual process be by which the penny so multiplies itself ? Are children born to it, for instance ? The cause of its huge increase is to be found in the fact that Adam's successors, their children, and children's children have had to save and save in an ever rising progression in order to pay back the penny and the interest thereon. Labour and thrift are the two forces of production which have operated here. Precisely the same applies to a sinking-

fund. If I keep back four million, out of an issue of a hundred million Treasury bills, and put them in the safe, I might just as well burn them. Their presence there with an official watching over them has no effect at all; the actual liquidation of the debt will not be effected through a secret magic of its own, but through the efforts of the tax-payers.

In considering the other assertion that the burden of the present can be transferred to the future, we have to remember the simple fact that, in the real world of history, miracles do not occur. Before Pitt raised the first great war loan in 1801 England possessed the capital which was thus appropriated and turned into munitions of war, soldiers' pay, cannon, powder, and shot.

Then when the war was over these equivalents for the money had disappeared, and the amount of the loan had really been consumed. Therefore it is clear that the national prosperity of the generation then alive was diminished, and moreover that their descendants had still to bear the burden of the interest due. Thus we see that there is no justification for the fundamental principles on which this frivolous theory is based, and yet no person endowed with political insight can fail to perceive that Gentz and his school had a much less fettered conception of what the State should be, and a truer political instinct than the upright, narrow-minded official world of Germany, whose only recipe was an eternal round of cutting down expenses.

In order to find a scientific measure for the

credit system of a State we must first consider the various purposes for which the money is borrowed. All State loans are a means of drawing private capital into public undertakings, but the character of the loans differ. We may divide them into three principal heads. First, we have the debts which the State contracts by bad management, and these we may look at from the standpoint of civil law and pronounce that they had better not have existed, for it is clear that the affairs of the State should be as well ordered and thought out as those of any private person. Liabilities which it incurs through pure extravagance and negligence do as much harm to its finance as they would do to any individual budget. Austria has transgressed unspeakably in this respect, because she was too lazy and thoughtless to provide herself with new sources of revenue at the proper time, and also by reason of the general corruptibility of her officials. Debts such as these, which arise from extravagance in management, are an absolute evil. Therefore it is important that the floating debt, which no State can be without, should not become too large. It is absolutely impossible for any State always to meet its current expenses by cash payments, and it must therefore have a floating debt, in the same way that every business man has his credit at some Bank; but it must not be too big, nor stand out of proportion with the State's resources.

To this extent then the principles of private thrift apply also to the State. Now, however, in the second place, we have a form of loan

which the State may raise, in order to turn the private capital of its citizens into fixed capital, which shall serve some great purpose for the common good. This can hardly be called a debt in the strict sense of the word, inasmuch as that the State gives the individual a proprietary interest in the equivalent for his capital. A State railway loan is so arranged that the holders of consols become co-proprietors of the State-owned railway. The real point, as we have seen, is not primarily the financial one, it is rather in the question—Do the conditions of intercourse in this State call for a State railway system? Political considerations, and questions of communications are the deciding factors, and if the answer be in the affirmative the contracting of the debt need not be considered financially, always supposing that everything is carried out in the proper way. The property of the State remains ultimately identical with the property of the nation, and the question can only be whether a disproportionately high price is being paid; nothing is lost, for the fixed capital of the State railroad represents in pounds, shillings, and pence the full value of the loan. For the State the question is as purely one of political and administrative expediency as if a large landowner were debating whether he should undertake extensive improvements upon his estates by means of a loan, the interest of which should be paid by the increased value of the soil, or whether he should do it with ready money, or not at all. The issue of such a loan is for him, as for the State, a matter simply of expediency, and heavy

debts of this sort may even be advantageous for a nation.

The real difficulty only manifests itself when we come to consider the third class of debts: those which are contracted by a State under circumstances of exceptional pressure, particularly in time of war. The State has in this case to decide whether it will meet its unusual requirements by an increase of taxation, or by the use of its credit. From the commercial point of view it would be cheaper to defray costs by taxation rather than by borrowing money, but the State has to consider the economic life of the nation as a whole, and must ask itself where it can most easily find available capital. For the State, taxation and loans are both methods of attracting private capital to serve public ends, but there is an immeasurable difference, which has to be reckoned with, between invested and free capital. For it is clear that a loan only attracts the available capital which the public can dispense with, and war is the very time when a great deal of capital is available. A State which enjoys the public confidence will find enough capital voluntarily put at its disposal. These are matters in which very many moral and political influences are at work. The energy of the national pride is of the first importance, and everything depends further upon the kind of people who control the national capital. The contrast between France and Germany in this respect still remains mortifying to our self-esteem. The very modest war loan raised by the North German Confederation for the last war was not once fully underwritten by

our wealthy Stock Exchanges, while the French loan was taken up ten times over, and to this day our Exchanges still reserve their enthusiasm for Argentine investments. We may seek the explanation in two causes : firstly, our instinct of national pride is not yet enough developed, despite the valour of Germany upon the battle-field; and secondly, our Stock Markets are so peopled with representatives of the Jewish race, whose sympathies are by nature international and not national.

In contrast to the war loan which draws in nothing but capital voluntarily subscribed, war taxation takes it by force, regardless of whether it is uninvested or of whether it may be yielding a 10 per cent return. Thus we arrive at the conclusion that a reasonable employment of the national credit is economically more correct than the cheaper method of raising taxation. When we consider the circumstances under which England contracted her gigantic national debt, we realize that at that time even England could not have supported the pressure of taxation which had become needful. The policy was undoubtedly correct, although the details were occasionally mismanaged, when in the Napoleonic wars credit was made to take the place of the capital which was left undisturbed to yield a better interest in private investments. Thus is explained the growing wealth of England in spite of the colossal increase in her national debt. We can only laugh when it is argued that these war loans have been unproductive, even if only in the strictest economic sense. It was a queer

kind of unproductiveness which brought the Cape of Good Hope, and who knows how much else, into England's capacious pocket. Her war policy gave her the richest spots upon the earth.

We are further led to perceive how a whole class of capitalists arises with the economic growth of a nation, and that it becomes a vital question for the State how best to bind these capitalists to itself. For if it relinquishes the use of its credit it drives them to place their money abroad or in all sorts of private enterprises, many of which are fraudulent. Thus the astonishing truth appears that the interests of public order and solidarity compel the State to have a large debt. We may go further still. My old friend Karl Mathy used always to say, "I wish nothing better for Germany than a good big Imperial debt, for there could be no firmer bond of union." It is impossible to deny the truth of these words, but we recognized it far too late. No one who remembers 1866 can forget how South Germany was affected by the fact that all South German capitalists held Austrian bonds.

France has much cause to be grateful to her national debt. Her fine national spirit, which we can never admire too much, has led every Frenchman who saves (and what Frenchman does not?) to place his capital in the 3 per cent consols, and only to withhold a specified sum for speculative investments. This is an invaluable bond of national unity, and, together with many moral causes, has been the obvious

material reason why the State has always been so quickly on its legs again after its countless convulsions. The idea which, ever since the rise of "young Germany," we have formed of France is totally incorrect. The French are closer reckoners, more thrifty, more niggardly than the Germans. The German nature has not only a heroic daring, but also a heroic carelessness of consequence, which is less visible in the shrewd and prudent Latin. For the economical Frenchman, Government stock is a link which binds him very closely to his State; its welfare is his own.

Thus calm inquiry shows that in an age where credit is universally employed, the State is not only justified in turning its own to useful ends, but is even acting wrongly when it neglects to use the inwardly uniting forces of the national credit to establish a living political sense among its citizens. It follows that an unnecessary liquidation of debt may be a serious political mistake at the present day. Prussia was instantly proved to be wrong when she put aside part of the windfall of the French milliards for paying off old debt. The capital thus liberated, which had hitherto lain quite secure in Prussian Government bonds, was now flung into all manner of speculative investments at home and abroad. What was really gained by the liquidation? The burden of taxation was diminished by a scarcely noticeable minimum, which was instantly swallowed up by fresh undertakings on the part of the State. No one now denies that the five milliards ought to have been immediately applied to starting the

network of railways which were begun some years later under circumstances essentially less favourable.

We may say with certainty that the modern State requires a permanent national debt, and it follows naturally that this should take the form of a funded debt, or Government stock. Since the State, humanly speaking, is eternal, its nature is expressed by a consolidated debt, not by a loan contracted for a specified time. As a logical outcome of this system the debt is simply entered in the ledger of the nation, and the State undertakes no general obligation to repay the principal but only binds itself to produce the interest. The creditors cannot call in their money directly from the State itself, but they can sell their stock. This is a familiar operation in our modern Stock Exchanges, and consols are the best stock, because they represent capital invested in a safe security and not subject to essential alteration.

Thus has the lapse of time conquered the old theory based on the economy of the private individual, and solved the riddle of the most debt-burdened of European nations being at the same time the wealthiest. So far as we ourselves are concerned, the German States are in no danger of any serious indebtedness, because the vast majority of German liabilities consist of railway loans, so that they have their equivalent at hand in the form of fixed capital.

XXVI

ADMINISTRATION IN PRACTICE

THE main part of the subjects with which this chapter deals, such as the protection and promotion of national welfare and education, which political science formerly regarded as its outlying provinces, have been discussed earlier, in our section on the Social Foundations of the State.

We shall now treat only of the technical side of administration, of the co-ordination of the authorities empowered to carry out the will of the State, of the Civil Service and its substructure, and of Communal self-government.

We have seen how the Roman Empire influenced future ages by the organization of its official system. It borrowed from the Byzantine Church the outward forms of its hierarchy, even as the Church of Rome in the Middle Ages also served as a model for the modern State in the arrangement and distribution of its offices, until the time came when every nation took its own line. The mediaeval State had absolutely no organized Civil Service, and it was left to the modern world to develop and systematize one as the weight and importance of political aims

continued to increase. The place at which the line is drawn between subordinate and higher officials is of particular importance for the character of the Civil Service; it is of no less moment than the nature of the division between officers and men has been proved to be for the Army. The various forms which the organization assumes in the three countries reflect for us plainly the tendencies of aristocratic England, bureaucratic France, and scholarly Germany, standing as it were between the two.

In England the line between officials proper and "clerks" so called is drawn, according to our ideas, extremely high. At the most favourable estimate there are not more than eighty officials, in our sense of the word, all the rest being clerks, who merely carry out instructions without attaining to the higher positions in the Service. The English official class is not held in the same universal esteem as our own, and "clerks" who come of good family are chiefly to be found in India. Rowland Hill was never actually Minister nor independent Director of the English Post-Office, but he always held the position of Head Clerk in the Department. This dependent position held by Civil Servants in England—"subaltern" in the worst sense of the word—is, as we have seen, part and parcel of the whole character of the old English State, which was aristocratic through and through. In France also the boundary is drawn high between the small number of *fonctionnaires* and the vast majority of *employés*, who are liable to be dismissed without pension, and with as little con-

sideration as an ordinary clerk in a counting-house. In this case, however, the system was not formed to protect the aristocracy of Parliament, but was designed in order that the temporary head of the State should be able to control the great mass of the officials, so that a whole crowd of them might be swept out at any moment, *ad nutum principis*.

In accordance with its eminently scientific character, Germany tries its Civil Servants by intellectual tests. The notion that a certain level of education carries with it a capacity for government is thoroughly German and deep-rooted in the somewhat theoretic idealism of our race. On the whole, however, it has proved itself to be true. In Germany the division between real officials and subordinates is to be found at the point where university education ceases. It is only recently that the magnificent development of technical training has produced fresh types of official, who may be placed on a level with those who have studied at our universities. The cleavage is far deeper with us than either in France or in England. It is carried down into the lowest ranks of the Service, and from it the whole German official hierarchy receives that character which is democratic in the good sense of the word. This trait notwithstanding, the official class have developed a whole series of ideas of honour peculiar to themselves, and unshared by any foreign nation.

A grave misfortune for us at present is the disproportionately large number of persons holding preliminary posts whose salaries are too

small to ensure independence of action. The disadvantages are both moral and material, for, on the one hand, the higher grades, already bearing more than their share of the burden of the whole Service, are still more unfairly overtaxed, while on the other the worst kind of competition may easily be aroused. Apart from this, a certain amount of independence has always been secured to our officials. Restraints were first imposed by modern Constitutional Government; *Regierungsräte* (Government Councillors) and *Landräte* (Provincial Councillors) found their former powers curtailed, and themselves made liable to be deposed for Service reasons. Upon the whole, however, the rule which forbids a man to be removed from office applies throughout Germany, although not unconditionally. Only thus can a Civil Service develop the characteristics of trustworthiness and honour. In no country is the pension system better organized than in our own, even though it still leaves much to be desired. Taken all in all, the German Civil Service may safely be called the best in Europe.

In Prussia, which became the model for the rest of Germany, the system upon which authority was delegated arose gradually in the course of history. It was the Elector Joachim Frederick who created in 1604 the Privy Council (*Geheime Rath*). At that date the Hohenzollerns had had accessions of territory both in the east and west, and this new central authority was at first the only one possessed in common by the scattered domains. This body, however, became larger,

and more and more unwieldy, until at length its subdivisions were past all counting. Then Frederick William I. stepped in as reformer of the administration, and brought into being the *General Direktorium*, or central administrative authority, which has been the germ of all future developments.

Our nation was extremely slow in adopting a currency in place of the old system of exchange in kind, but finally the State could subsist no longer upon the revenues of the old Crown lands, and in the time of the great Elector the collection of taxes became the rule in Brandenburg, instead of, as formerly, the exception. Thus an administration of taxes arose side by side with the old patriarchal administration of the Crown Estates, which till then had been controlled by the Crown Estates Office (*Domänen-Kammer*); the War Commissions (*Kriegscommissariat*) were appointed, so called because the permanent taxes were appropriated to military uses. Thus did the mediaeval State stand side by side with the modern, pursuing a system of dual control, whose respective parts bore no defined relation to each other, the Crown Estates Office (*Domänen-Kammer*) representing tribute in kind, and the War Commissions (*Kriegscommissariat*) representing tribute in money. It is to the honour of Frederick William I. that he amalgamated the two groups of officials and created the War Department and the Royal Domains Department (*Kriegs- und Domänen-Kammern*) which together controlled the whole fiscal system. From this arrangement sprang the eccentric

title of *Kriegsrat* (War Councillor) given at that time in Prussia to the Government Councillors (*Regierungsrat*) as they are now called. These new intermediate posts were placed by the King under the control of the *General Direktorium*, the terms of whose commission were drafted with his own unsurpassed practical ability.

At first the work even of that authority was not logically subdivided according to the subjects with which it had to deal, and the provincial Department was mixed with the Department which administered the State as a whole in a marvellous medley. The Minister for the Province of Magdeburg was also Minister of Mines for the whole monarchy, because nearly all the State's mines happened to be in the Province of Magdeburg. The Minister for East Prussia and Lithuania superintended the drainage and cultivation of the whole kingdom for the same reason. Silesia, which at the time it was acquired was about a third of the monarchy, lay quite outside the administration of the *General Direktorium* and was directly under the King in person.

Inconsistent as all this was, it represented the immature and growing conditions of the State. The eaglet still carried the fragments of the shell upon its head, and even in 1806 some officials of the old school still spoke of Prussia as a Federal State. Only the reforms of Stein and Hardenberg reduced this chaos to order. Stein copied from France what was worth copying, that is to say, the creation of special Departments for special business. Thenceforward every Minister of the

Crown had his own Department. It is characteristic of the Prussian Bureaucracy that it employed only a relatively small number of independent officials, and generally preferred a Board. If despatch was thus somewhat sacrificed, the individual citizen was compensated by greater security for his rights. The reputation for equity enjoyed by Prussian Civil Servants was well deserved. After the catastrophe of Jena our Civil Service was recast, although with caution, and the old Boards were retained with some modifications.

In France, on the other hand, bureaucratic administration remained as Napoleon I. had left it. It had always lain in the hands of individual officials. Under the old *régime* the Provinces were governed by thirty Intendants, whose functions were never strictly defined. A continual struggle raged between them and the aristocratic owners of the soil. The Intendants derived their strength from above, and could always count upon the King's support, but they had no independence whatever. They were always drawn from the *tiers état*, and fought the battles of the bureaucracy against the agrarian nobility with a marked class prejudice. France had become identified with this state of things, and when Napoleon reorganized the administration of the country by the law of 28 Pluviôse of the year VIII. he had only to develop the existing system of centralization more logically and completely. Local institutions were all made to conform to the central pattern with a mechanical regularity, and officials were given definite powers.

They were omnipotent as regards their subordinates, but as dependent as ever upon their superiors. The apex of the system was the Council of State. From it alone the Prefect received his orders, and was protected from all intervention on the part of the Courts.

A centralized bureaucracy, however, is never entirely adequate to the needs of a cultured people, and it must be supplemented by local self-government. To understand this properly it must be realized that the Commune (*Gemeinde*), representing the interests of the local corporation, stands half-way between the State and the individual. Most political writers place the Commune amongst the social institutions of the State. This is not an error but an irrelevancy. Strictly speaking, the Commune is a division whose character is mainly political. Both State and Commune are on a territorial basis, and share the further characteristic of being paramount within their respective spheres. The Commune is a microcosm of the State, it embraces all classes and callings, and is to that extent universal in character. This must not be taken too literally, since the limited area of the Commune prevents the co-existence of every type within it, although great cities do actually include all classes of the nation. There is another respect in which the Commune appears less perfect in contrast to the genuine universality of the State, for the preponderance of certain industries must markedly modify its conditions, and the contrast between town and country may be softened but never abolished. The intrinsic

relationship of Commune and State, and the political rather than social nature of the former, is made plain by the fact that if a Commune could be isolated it would form a State, and, inversely, that if a City-State is subjected to a higher authority it would decline into a mere Commune. This cannot be said of other purely social communities, because they lack the material attributes of independence. A totally independent Church is a chimera, for it can only become a State by being sole possessor of definite territories. The Commune, on the other hand, is homogeneous with the State, and differs only in being smaller and more one-sided.

We Germans have always felt the claims of local rights too strongly, but there are some nations, especially those who were herded under the hierarchy of Rome, to whom strict consistency and practical efficiency of administration (which are both better realized under a centralized system) seem more important than the unhampered expansion of local life. We may say, however, that wherever this ideal of logical order is strongly felt, true political freedom will be slow to develop. When a people is unequal to managing the most ordinary and trivial affairs for itself it will still less be capable of solving the greater political problems by its own independent judgment. It is of the essence of political freedom that the will of the State should assert itself not only through its authorized officials but also through the machinery of local government.

We must now define what the term "local

government" (*Selbstverwaltung*) exactly means. Autonomy will not express its full content, rather the contrary, for legislative power must remain in the hands of the central authority, and we find that Communal liberties are only possible when this centralization has existed for a long time past. England is the best example. There all local government is founded upon the central legislature, and has therefore been able to mature without detriment to the Common Law. French Communes, and German towns, on the other hand, enjoyed only too long the dangerous privileges of autonomy. For this reason the French State in particular was compelled to crush this independent spirit, and to subdue and shepherd Communal life too much. Legislative authority must not be conceded to Communes, which should only have power to issue local regulations under the approval of the State, like the by-laws of the English local authorities. Otherwise the consistency of national legislation will be marred by the interference of local bodies. Nor is the essence of self-government contained in the election rather than the appointment of officials to unsalaried posts. Both these methods are possible, but not indispensable. To take the most illustrious example —for no less than five hundred years English Justices of the Peace have been appointed by the Crown, and yet nobody doubts that their offices are in the nature of self-government. Furthermore, every one feels that our own salaried Town-Councillors (*Stadträte*) and Burgomasters are officers of the local, and not of the central,

government. In the United States all local officials are paid, while in Germany we have a complicated system of stipends.

It is not then in such outward forms as elective or honorary posts that the essence of local government is to be found. Local government is first and foremost the executive of the State's sovereign will, imposed not through the officials of the State, but through local bodies who are empowered to conduct affairs with a legal, though relative, independence, either through their own members or agents of their own appointing. The functions of these governing corporations are not exhausted when they have carried out the will of the State within the narrow circle of urban areas, for the management of purely local matters, with special reference to local taxation, also falls within their scope. Here lies the reason why so many political thinkers have maintained that Communes only exist for purposes of finance. The laying on of water and the lighting and cleaning of streets are important parts of urban administration, and in the country districts it is even more apparent that the chief function of Communal government lies in the sphere of economics. In the old days of forced labour the details of agriculture were settled by the Communal authorities, and, although this system is now discontinued, the attention of a peasant community is still chiefly engaged by the economic side of existence. Nevertheless the village Syndic is at the same time the servant of the State, responsible for the custody of vagabonds and so forth, so that the dual character

is never absent from Communal administration. The aim of healthy political life is to combine the independence of Communes and Communal Unions with a really vigorous central authority.

By the nature of things all local government is aristocratic in character. It is quite impossible to entrust the first comer with offices which landlord and citizen administer side by side, and therefore it is perfectly just and normal that such appointments should be given to men of property and standing. In our country of course the limit is placed very low, but, even so, local government can never lose its aristocratic nature, and here we have the reason why it commends itself so little to any radical party, and why universal suffrage must be absurd when applied to Communal elections. By it power would pass out of the hands of the classes who wield it to-day.

If such a system is wrong for the Communes it cannot be right for the State. It is the great merit of self-government that it diffuses through a wide circle the sense of personal responsibility and a certain measure of political experience. In countries like France, where it does not really exist, the citizen is merely a critic of the State. Honest peasants and townsfolk, who co-operate in government, acquire some idea of its difficulties and responsibilities, and men who are not State officials usually get their political training only through this practical school.

The seamy side of the system is that it appeals directly to the selfish social ambition of the governing classes. There is danger of social

injustice and of too much favour being shown to the interests of the classes who do the political work. No doubt the average official often suffers from an imperfect sense of proportion, but he is not concerned to vindicate the interests of his own class against the great forces of society; his object is to safeguard the authority of the Government with which he feels himself identified. Moreover our German Civil Service is recruited from such various sources, and presents such different types of education that generally we may safely expect social justice at the hands of this monarchical bureaucracy. Our officials could have no object in preferring a nobleman before a peasant. Local government, on the other hand, is administered by the local land- and property-owning classes, hence it is natural that the simple man has less confidence in the local magistrate (*Amtsvorsteher*) than in the Provincial Councillor appointed by the King (*Königliche Landrat*). Here lies the danger of all self-government, and the rock upon which even the time-honoured English institution of Justices of the Peace finally foundered. It had become too exclusively aristocratic, and the poor man no longer relied upon receiving his rights when they clashed with those of the gentry. Thus in England the old office has become almost nominal.

A further defect in local government is its amateurishness. While some theoretic knowledge at least may be expected from a State official, the representatives of self-government are always prone to a crude and light-hearted empiricism. Herein lies the reason why those

persons who everywhere look only on the material side of things are so hostile to the system. The genuine disciple of the Manchester school who believes that buying cheap and selling dear is the goal of all existence is perfectly correct from this point of view in arguing that a scientific classification of Government work would serve local interests better than the system of local government itself can do. Technically there is much to be said for this. It cannot be denied that a bureaucrat like Baron Haussmann can achieve great practical results, and that a man of his energy could organize town-planning with a dexterity and speed which was quite beyond the contentious City Council of Paris, but the real question is politico-moral, and concerns the political education of the people. For the Teutonic nations at any rate there is no doubt that daily contact with the business of government has had a highly educative influence. A certain training in theory is indispensable to parliamentary usefulness, but in our case the real political strength of the nation has always been found among those men who have learned the practical art of government in the towns and in the country.

The particular organization of local government is a matter of the greatest moment to every State. In England the county and not the parish has always been the administrative unit, and the country has never possessed that natural basis for rural self-government on democratic lines, a *Landgemeindeordnung*. Even urban administration fell into decay at an early

date, and is far from being a model at the present day. The country districts are comparatively thinly populated, and the villages have not sufficient vigour to assert themselves. The more independent elements among the country people have been drifting for centuries to the towns or the colonies. Peasant proprietors have only survived in the extreme north-east of the island, and in all other districts they have been bought out by the gentry. The whole country is broken up into some thousands of large estates, which are again subdivided and handed over to the tender mercies of tenant farmers. Briefly stated, the social conditions of English country life have been distorted by aristocratic influence. Germany has the advantage of possessing millions of free peasant owners, but this yeoman class is totally extinct in England, and its absence gives a servile tone to country life. Social conditions such as these naturally left the gentry an overwhelming preponderance, and so long as they were unchanged the cumbrous aristocratic form of local government remained intact.

The administrative areas are the counties, immemorial historical units, reaching back to Saxon times. Their average size is about that of our Altmark, and, relatively at any rate, they have a stronger individuality than the French Departments. Above all, each of them has a long history of its own, filled with popular heroes like Robin Hood of Lincolnshire, who are closely bound up with national tradition. Here we have the provincial spirit in the best sense of the word. It is evident that the gentry are the only

possible leaders of local affairs in these counties. The middle class lack both the leisure and the means to undertake the task, and consequently the chief office of English local government, the Commission of the Peace, has been, from its institution in the fourteenth century (1360), exclusively in the hands of the great landlords. Justices of the Peace were intended to deal with petty offences in rural districts. Every young gentleman of good county family who had finished his studies and made the grand tour was put on the list of magistrates when he came home to pursue sport and enter Parliament. Professional men who had made their money in the towns and had then retired to the country were also eligible, but otherwise only scions of the gentry were as a rule enrolled.

In 1850 this system was still flourishing, and in that year the total number of landowners amounted only to about 17,000 (so abnormal had the conditions of land tenure become), and of these nearly 8000 were magistrates and most of them actually exercising their functions. They were appointed without regard to political party, and all the J.P.'s of the county, or later of the county division, had concurrent jurisdiction. Illogical as this plan was, it had good results, for, although the method was unscientific, it provided a safeguard against political partizanship. So long as industrialism had not invaded the rural districts the average country gentleman was quite capable of grappling with the simple problems of the locality. Technically speaking, not much was to be expected of such

a system. Vade-mecums of every kind, arranged alphabetically or otherwise, were provided to guide the perplexed J.P. through the intricacies of law and punishment. Quarter Sessions forms a Court of Appeal from these inferior tribunals, where all the "usually attending" Justices of the Peace assemble. Erroneous judgments of individual magistrates are here reversed, and the gentry are thus made to sit in judgment on themselves, which is a solace to their pride. There is a touch of the grand manner about all this, which is eminently aristocratic. It goes without saying that J.P.'s are irremovable so long as they commit no penal offence. In order to understand the English system completely we must bear in mind the tremendous burdens which self-government laid upon the landowning class, and it was regarded as a point of honour to defray the expenses of their office themselves. In this way the English aristocracy continued to renew its social influence.

This state of things was clearly incompatible with the increase of available capital and the rise of the middle class. The old methods of local government no longer admitted of genuine social justice; they were harshly aristocratic and were therefore doomed. Conditions first became intolerable in the towns, and it was soon evident that great cities could not be administered by Justices of the type we have described. In 1830 Sir Robert Peel created a salaried police force for London, which like its continental counterpart was placed under the direct control of the Home Secretary. The new spirit was also em-

phasized by the Reform Bill of 1832, which brought some professional and popular elements into Parliament. We see in the collapse of the aristocratic forms of local government the first symptom of that democratic movement which broke out in 1830, and within two years led to Parliamentary Reform.

The next step was to mend the crying scandal of the Poor Law. The Act of Queen Elizabeth in 1601 was still in force, and in spite of great outlay of money very little was actually done for the lower classes. The influence of the new middle-class elements in the House of Commons led to the establishment of a new Poor Law authority in 1835, a highly centralized bureaucratic body, consisting, however, of well-trained experts. The whole kingdom was divided into large Poor Law areas, which are administered by new methods of local government, much less aristocratic, but also less free than the old. The landowners elect a Committee, which does not itself carry out details, but appoints subordinate salaried officials, called Poor Law officers, whose function it is to administer the Poor Law under the direction of the Committee. Thus in dealing with pauperism, a more democratic and bureaucratic system, which governs by proxy, arose alongside of the old aristocratic system, which acted without intermediary. Subsequent reforms were on the same lines. In 1848 a much-needed Act for dealing with Public Health was passed, and a Board set up in London to enforce it. The need for the reform was glaring, but nevertheless the destruction of the old self-government

was thereby continued, and this sphere of it also was invaded by subordinate officials acting under the control of a Committee.

Finally, towards the end of the year 1886 the agitation for a change in county administration began. J.P.'s were not entirely abolished, but their powers were made almost nominal, and since that time their functions have been little more than an honourable sinecure. It is still thought the proper thing to be a J.P., in the same way that the most prominent of the great landed aristocracy still aspire to become Lord-Lieutenants, although the most onerous duties of this office now consist in giving expensive dinner-parties. Thus the office of Justice of the Peace has sunk into one of ceremonial only, and the centre of gravity has shifted to the County Councils, which are Committees chosen by the county ratepayers on a fairly liberal electoral basis, which includes women who own property. But even the County Councils do not govern directly, like our local magistrates (*Amtsvorsteher*); they appoint paid officials, who carry on business on bureaucratic lines.

Such a Committee has no real vigour, and it marks the beginning of a new era in which English public life became much more democratic, but also much less free. A government which does not govern directly is not worthy of the name, and thus England, in spite of her magnificent national history, may at last fall into the same bureaucratic groove as France. It is still too early to pronounce, but it is safe to say that the democratization of England, which began with

the Reform Bill of 1832, took a great step forward with the establishment of County Councils, and given the narrowness of English Radicalism it is impossible to foretell what the future may have in store. These phenomena are more instructive than encouraging, for they prove that Democracy and Liberty are not always synonymous, but often contradictory terms.

It is obvious that England has been influenced in these respects by French example. In other spheres her history is thoroughly insular, but since the middle of the nineteenth century there have been developments in which continental, and particularly French influences have made themselves felt. Just as the Reform Bill would certainly never have passed without the Revolution of July, so certain bureaucratic ideas have been imported from France into England. France has a system of self-government, which according to our ideas is not worthy of the name. This can best be explained by saying that here again Germany stands half-way between France and England. Formerly, in England, officialdom kept quite in the background and only made itself felt at headquarters ; France has its bureaucracy disguised as self-government, while Germany displays a combination of Royal officials and self-government, which corresponds to our conditions, and has been justified in practice.

I have already explained how the indiscipline and turbulence of the aristocracy compelled the old French monarchy to centralize the Government wherever possible. Thus in the Middle Ages the kings sent their " baillis " with

indefinite powers to keep what order they could amidst the chaos of contending aristocratic forces in the Provinces. This method was developed more and more, and under Richelieu centralization almost reached its zenith. The despotic rule of his Intendants and sub-Delegates was only restricted by expediency. All this was in the nature of things. It is undeniable that the old French nobility showed an anarchical spirit which had to be repressed, but all Communal liberty perished in the process. When Napoleon I. reconstituted the Administration he took his stand on historical precedent and completed the work of previous centuries by instituting bureaucracy pure and simple.

The Revolution had abolished the ancient Provinces of France. What a contrast to England with its immemorial county boundaries, and to Prussia with its Provinces, new indeed in form, but rooted in history. The Revolution broke the chain of tradition so completely that everything which happened before the storming of the Bastille has been wiped from the people's memory. The Breton, the Norman, or the Gascon may indeed still be distinguished by their manners or their speech, and some small districts show a marked individuality, but, politically speaking, the Revolution has swept the old divisions away for ever, for it scented danger in the old independence of rural life. Everything that smacked of local independence was denounced as Federalism by the National Assembly and the Convention, and thus the Girondins fell most unjustly under the same suspicion.

Suffice it to say that the old territorial divisions were wiped out, and the country divided upon the map into Departments, originally eighty-three in number, which were too small ever to give the central authorities a quaver of anxiety. Siéyés, who drew up the Constitution, even recommended that they should not be named, but merely numbered. This proposal was even then considered too foolish, but the alternative actually adopted of calling the new units after mountains and rivers is really quite as ridiculous. Who could feel loyalty to a Department which is named after a river? A man may be proud to call himself a Norman or a Provençal, but how can he wax enthusiastic over the Department of Seine Inférieure, or Bouches du Rhône? Obviously such latter-day administrative areas can have no real political life. Their geographical area is diabolically planned. If the Provincial Governments (*Regierungsbezirke*) in Prussia were the biggest administrative units, they also would be too small to have a life of their own. Nature always finds an outlet, even under unnatural conditions, and it is true that some French Departments already have their history. Efforts are made to arouse a feeling for history in unhistorical conditions, because the instinct to link the past with the present is ineradicable in human nature. Broadly speaking, however, the object has been attained, and the old historical provincial life has gone.

The elimination of all distinction between town and country is also typical of the unhistorical spirit which animates the system, and this in a

country where the majority of the Provinces show a very marked contrast between the two. Many of the country villages are made up of dens hardly fit for human habitation, while hard by lie towns noted for their wealth and beauty. The law ignores this difference, and recognizes nothing but the municipality, which applies equally to urban and rural districts. All distinction between the two has been abolished, and the whole country has 40,000 municipalities, constituted alike, with Paris alone excepted.

By a fundamental principle of all French government, initiative and responsibility are both kept solely in the hands of the Civil Service. The present method of dividing the country has fostered a firmly centralized bureaucratic administration, ably served by the inexorable logic of a masterly system. At the head of each Department is placed a Prefect, who is irremovable, entirely dependent as regards his superiors, and well-nigh omnipotent as regards his subordinates. Next to him comes a sub-Prefect for each arrondissement, and then a Mayor for each municipality. Formerly the State appointed even the Mayor; he is now elected by the Parish Council (*Gemeinderat*), but experience has shown that there is no practical difference. The Mayor is, as he always was, a notable of the district, who has to exercise his authority in the name of the State, and, in spite of his title, he is more an official of the State than of the local administration.

This system knows no parochial or Communal areas with independent corporations in our

German sense. A controlling and criticizing body does indeed exist beside the Prefect, a general Council, elected from the highest-rated inhabitants of the Department. Its function is to communicate its advice and opinion, and to bring forward *gravamina* against the Administration; in short, it bears no responsibility. A body which is not called upon to answer for what it does or advises can have no authority, politically speaking, for in politics responsibility is inseparable from power. In the same way the sub-Prefect is flanked by an arrondissement Council, and the Mayor by a municipal Council. The fiscal system affords an example of how little weight Communal self-government carries in France. Communal burdens are covered simply by supplementing the State taxes, by means of the "additional centime." The amount of these supplements is characteristic. In Berlin we are satisfied if we are let off with a supplementary rate amounting to 100 per cent of the Imperial taxes. Towns in industrial districts are often in a much worse plight, and pay five times as much to the Municipality as to the State, for our local government has many tasks allotted to it. In France, on the other hand, the "additional centime" usually amounts to one, or, in rare cases, to 3 per cent of the State taxes.

These figures illustrate the contrast between French local government and our own. France is divided into the governors and the governed, into omnipotent officials on the one hand, and submissive subjects on the other, who retain the

right of criticism without responsibility. These are the actual facts, and they reflect the national character. The drawback to this mechanical and inanimate but business-like system is the secret log-rolling and jobbery amongst so-called notables which plays such a sinister part in French life, and whose evil influences we have experienced in Alsace. No capable nation is content to let itself be administered without sooner or later claiming a share in the management of its affairs, and if that is denied it will seek an outlet in bribery and intrigue. The notables try to gain their ends by backstairs influence at the Prefecture. It is a point of view which we cannot understand, but which we must accept as the eccentricity of a great people. It has taken us a long time to wean our population on the left bank of the Rhine from its fondness for these French practices. Until 1848, the Rhinelanders, with David Hansemann at their head, were filled with an enthusiastic respect for the glorious French system of Prefects. They reckoned on their fingers that a Prussian Provincial Government involved so and so many Councils, while the Prefect was content with one. Therefore, they argued, the French system must be cheaper—a conclusion which was not borne out by a comparison of the achievements of the two systems. The first result of the French method is to enslave the spirit of the people, and to prove how unfit the French are for real political liberty.

A relative ability for self-government distinguishes the Italians amongst all the other

Latin peoples, who were so thoroughly impregnated with the spirit of Ancient Rome that a hierarchy in things temporal as well as spiritual seemed quite natural to them. But Italians have so much Teutonic blood in their veins, and in the Middle Ages their municipal life flourished so proudly that we can trace its effects amongst them to this day, although they proved themselves to be true Latins after all in 1861, when the kingdom of Italy came into being. The problem then was the reconstruction of the Provinces. Piedmont had been divided into Departments on the French plan,—Turin, Genoa, etc.,—which formed obvious units in so small a State, but the transference of this organization to Italy would have led to the adoption of the whole French system. The project was opposed by distinguished men who demanded the formation of Provinces on the German pattern, "Regions," as Minghetti, then Minister of the Interior, wished to call them. Italy possessed great areas with a long-standing history, such as Tuscany, Lombardy, or Venice, and why should they not be organized on independent lines? Minghetti wished to reproduce the Prussian arrangement in his own country. Italy would then have had twelve "Regions," each with its own traditions, and a certain measure of independence in its relations with the capital. The measure met with insurmountable obstacles. Firstly, French influence was so strong that the Prefect system seemed the only solution, and secondly, there was a dread of separatist tendencies. To avoid this rock, it was decided to

have only little Departments (for the so-called Provinces are in reality nothing else), which have no historical roots and no prospect of developing a healthy independence from central authority. At the head of each is a Prefect, only slightly controlled by a Prefectural Council.

Happily the sub-structure is healthier than in France, for the sturdy old municipalities were not so easily brought under the bureaucratic yoke. The mediaeval history of Italy is civic, the whole character of the nation has become urban, the nobility have everywhere emigrated to the towns, so that a gentry in the true sense scarcely exists. To-day it is the ambition of the dukes and princes to become Syndics of the great cities—Rome, Milan, and the like. In addition there is the gradual depopulation of the rural districts by the great towns. Every town is surrounded by suburbs planned on urban lines, so that villages are only to be found in the remote districts. The old Roman axiom still holds good, "the child of the village is child also of the Mother City of the village." The traveller arriving in Genoa cannot distinguish where the suburbs end and the town begins. This belt of hamlets encircling the town proper is very ancient, and gives to the first administrative grade its peculiar character all over the country. Communes, presided over by men of standing, and taking a healthy pride in their independent administration, very nearly balance the centralized Prefectural system.

Germans may truly claim that no other country has grasped the idea of self-government

so fully as our own. In the Middle Ages we permitted civic freedom to grow even to excess, and a great number of our cities received the freedom of the Empire and exercised all the functions of sovereignty within their own walls. German city life attained a wonderful bloom in consequence. It is an open question whether the splendid development of Municipal government at the close of the Middle Ages should be regarded as the apotheosis of the mediaeval Commune or as the germ of the modern State. There is much to be said for both views. The consciousness of ethical duties began to dawn upon the authorities in the small autonomous municipalities, and led them into manifold activities which had lain far beyond the reach of all States in their period of primitive economics. The inevitable reaction followed, and the Imperial cities fulfilled the old French saying, of which France had already felt the force: "the search for too much freedom leads to slavery." The growing power of the central authority could not tolerate such autonomous communities. Their subjugation began, and in the eighteenth century the once flourishing towns were stagnant and decaying. The miserable condition of the Imperial cities and of their leading families only finds a parallel in England.

Once again, it was Frederick William I. who laid the foundations of a new Prussian freedom which he neither guessed at nor desired. Nothing was further from his thoughts than to confer fresh liberties upon his Prussian towns, in restoring the order which was his chief concern. He ap-

pointed Royal Commissioners to purge municipal finance and to sweep nepotism away, and these "regulated" towns of the Monarchy were those who entered most willingly into the subsequent Edict for the government of towns (*Städte-ordnung*), because in them the sense of justice and outward order at any rate had been restored.

This new Prussian Town Edict was the creation of the Freiherr von Stein, that great man whom my master Dahlmann called the founder of German civic life in a deeper sense than King Henry. The splendid expansion of German cities in the nineteenth century is essentially a product of freedom combined with an effective self-government under monarchical guidance. It is characteristic of the practical genius of Stein that he saw at once where to find the fulcrum for the lever. It was impossible at that moment to reconstruct the rural Communes and Districts, because the emancipation of the peasantry had only just been begun. The newly-liberated vassals were so suspicious of their former lords that co-operation between the two could hardly have been brought about at that time. Social cleavage was less marked in the towns, but even there the hard lessons of the War of Liberation were needed before the idea of the collaboration of the middle classes in the Administration could be realized. During the war whole Districts were left without any Royal officials at all, for they were all serving with the colours, and the Communes had to look after their own government. Taken all in all, Stein so exactly hit on the right plan that his arrangement has served,

either directly or indirectly, as a model for German Communal government ever since. Before 1848 self-government had become a sort of fetish amongst us, and in the 'thirties the *Städteordnung* was called "Prussia's political Bible." A generous rivalry arose amongst the great towns as to which of them should be best administered.

Stein's work was thoroughly original, for his experience was limited to his own county of the Mark. The fundamental characteristics of the Edict of November 1808 are of the simplest nature. It starts from the principle that the town should control its own finance as well as public safety in the fullest sense, and that these functions should be exercised jointly by the Chief Official (*Magistrat*) and elected representatives of the city. Town Councillors (*Stadträte*) and Corporations (*Stadtverordnete*) have a direct share in city government through their Committees and Corporations, and are not merely a body intended to supervise the Burgomaster. It was a particularly happy thought to compose the Municipal Council partly of paid and partly of unpaid members, and this combination has proved eminently useful, for the conditions in the greater Communes are so complex that they require permanent expert officials to manage them. One consequence of this legislation was unforeseen by its author himself. The general freedom to settle, and the increased facilities of communication which are characteristic of modern life could not fail to produce a sort of nomad bureaucracy of which Stein could never have dreamt. Look

at our own municipal magnates; Herr von Forckenbeck was Burgomaster first at Elbing, then in Breslau, and finally in Berlin, and he is no exception to the rule. Taking recent events into account we find that not even this shifting bureaucracy has been able to break the wholesome spirit aroused by the *Städteordnung*. Every Commune still keeps its special characteristics, even though it may have called into its administration many men who were not born within its boundaries.

The problem of incorporating the countryside completely in the system of local government was far more difficult than re-organising the towns. The first obstacle was the natural resistance of the old territorial gentry, who till then had policed the district, and as landowners had wielded a patrimonial jurisdiction, and since they had incurred considerable expense in the exercise of a right which they looked upon as bound up with the honour of their class, they were not inclined to exchange their feudal prerogative for a Communal duty. In 1810 Hardenberg laboured in vain at his Rural Edicts. The extension of the kingdom after the War of Liberation gave rise to a second difficulty, in the shape of the vast contrasts in the local life of east and west. If we go back to 1815 we do indeed find among the 25,000 Communes of the eastern Provinces a number of big, town-like villages, especially in the rich industrial valleys of the Riesen Gebirge, but in the north-east we still find predominant the little, old village colony nestling round its manor-house. In the

west this connexion between the hamlet and the hall had almost entirely disappeared, and left only the big ancient villages which had sprung from the powerful border communities (*Markgenossenschaften*) of old Germany. In the busy Rhineland the distinction between rural and urban life had become so faint that the inhabitants clamoured for a uniform administration of town and country. It was on this question that the projected Prussian Constitution of 1821 was wrecked; the failure to agree upon Communal organization made it impossible to proceed with the superstructure. It is only quite recently that any general scheme of Communal administration has been created for our seven western Provinces.

Beyond the Commune came the administrative District (*Kreis*), which was at first controlled by the nobility alone. The Provincial Councillor (*Landrat*), in his capacity of Lord of the Manor (*Rittergutsbesitzer*), was both in the confidence of the District and in the service of the King. This dual *rôle* was amply justified by results, because the towns were withdrawn from the jurisdiction of the Provincial Councillor, and placed under the immediate control of the Crown—communities of peasant proprietors were the exception, the countryside was made up of large estates, and the normal thing was for the District to be represented by one of its ruling class. This, too, had to change with the extension of the monarchy. The western Provinces, which lacked the material for Provincial Councillors forthcoming in the east, were now divided, as the others had been,

into administrative Districts, which, however, were from the beginning of a different type. In them the Provincial Councillor (*Landrat*) was a Royal official out and out, and the whole system was manipulated in a far more bureaucratic spirit than in the east, where the Councillor really was a native of the district which entrusted its affairs to his keeping.

The local government legislation of 1872 attempted to re-organize District administration. The rural police, which had been in the hands of the landed gentry, was transferred to the charge of the *Amtsvorsteher*. These men selected from the District Committee (*Kreisausschuss*), are confidential officials to an extent which the landowners never were. The District Councillor (*Landrat*) was originally *primus inter pares*, and even at the present day he is still generally a native of his own District. He is nominated by the local assembly (*Kreistag*) and his appointment is confirmed by the King. He collaborates with the local assembly, and polices the District jointly with the Communal officials (*Gemeindevorsteher*).

It is very interesting to trace how the system of Provinces, or superior local bodies, standing above the Districts, was created in Prussia. In 1815 we were confronted with the task of organizing many newly-acquired dominions, and as these were a veritable chaos of formerly independent territories it seemed an obvious expedient to divide the whole country into equal Departments of moderate size, modelled upon those of France. Hardenberg's sympathies in-

clined towards the French Prefectural system, and he had seen his ideal realized in the new Kingdom of Westphalia. This was the great difference between him and Stein. Stein was a reformer along the lines of aristocratic self-government, Hardenberg along those of an enlightened bureaucracy. Stein was the first to see the necessity for large administrative areas, like those which a long process of development had made normal in the Eastern Provinces, and Frederick William III. had the historic insight to perceive that his Minister was right.

Thus, despite the outcry in the Rhineland, and in face of Hardenberg's opposition, 1815 saw that admirable division of the country into provinces, which is still in being, and still holds the happy balance between centrifugal and centripetal forces. It was no more than an official endorsement of actual facts, to recognize the fidelity of East Prussia by making it a province on the same footing as West Prussia, and on the same principle which prompted the reamalgamation of Pomerania into one whole. The same is true of Silesia, Brandenburg, and Westphalia. There is definite meaning as well as gratification in calling oneself a Pomeranian, a Westphalian, or a Brandenburger. These are as a matter of fact historical provinces, which have had traditions in common, and are bound together by racial characteristics, and community of economic interests. The only badly constructed province is Saxony, but here the responsibility does not lie with Prussian statesmen, but with the wiseacres at the Congress of Vienna, who left Meissen and the

heart of the country in the possession of the old dynasty. Hence compromise was inevitable, because the whole District was not available. This apart, the division has been most successful, and an acute historical instinct merely established what history itself had already created.

By means of the old Provincial Diets and new Provincial Committees, a form of local government has been created which, though modest in scope, carries on without ostentation an invaluable work in town-planning, care of the poor, and institutions for the deaf, dumb, and blind. The transformation of the Provinces from mere administrative areas into social bodies set up a concurrent jurisdiction of rural District Directors (*Landesdirektoren*) and Provincial Presidents (*Oberpräsidenten*) which does no doubt sometimes lead to friction. The Governmental sub-divisions within the Provinces did not require to be erected into self-governing bodies, for they only serve to facilitate the State administration. This administration, however, became rather cumbrous, because it was confided to Boards whose lengthy deliberations delayed the course of business. Generally speaking, it is the defect of our system that it multiplies Committees, but this will right itself in course of time.

The fundamental idea of these Boards was sound, because it contained a certain guarantee for constitutional rights. Their proceedings resembled those of a Court of Justice, and all the probabilities pointed to an unbiassed decision in doubtful cases. Time, however, proved that it was quite impossible to leave the Governmental

sub-divisions in enjoyment of their former independence. A Minister who is responsible to Parliament for action taken by his Department must be able to rely upon his subordinates. These Boards therefore ceased to be Courts of Equity, and gave place to more stringent administrative methods.

At the same period Ministers with expert knowledge (*Fachminister*) attained a quite undue influence in Civil Service Courts. This led to a pressing demand that once for all a regular Civil Service Code should confer the right of appeal upon the members of that Service, and since 1875 we have had a whole gradation of Civil Service Courts, specially created for the purpose of settling all disputes relating to administrative questions.

Provincial local government can therefore show a respectable record of public service, but even to-day the centre of gravity of German self-government lies in the Communes, and this is consonant with the democratic tendencies of modern social life. Although it is true that local government is essentially aristocratic owing to the inability of the lower classes to share in it, then the effect of this is bound to be much modified in the smaller communities where even the humblest artisans may fill posts under the local authorities. Germans display a great readiness for self-sacrifice, and aptitude for local government when opportunity is given them, and all our experiments in this direction have been amply justified.

FIFTH BOOK

THE STATE IN INTERNATIONAL RELATIONSHIP

XXVII

HISTORY OF THE COMITY OF NATIONS

THE history of the comity of nations is an enchanting subject, well worthy of the attention of a great historian, for in few other regions of historical research is the general improvement of mankind so traceable, or the influence of free moral forces upon history so clearly to be seen.

Religion, science, and commerce bind the nations to each other, and, although each State is the supreme power within its own sphere, these forces lead it beyond itself to take its place in the international mosaic. In the antique world this tendency was repressed by the intensive strength of the national idea. Every people of antiquity looked upon itself as the chosen race, and all were equally sunk in the fathomless ignorance which accompanies such an arrogance. The differences in the various State religions formed the first stumbling-block in the way of a comity of States, and war was the normal condition, for the ancient State was incapable of tolerating any neighbour who was not either an enemy, or an absolutely subordinate Confederate. The saying of Euripides, *βαρβάρων Ἕλληνας*

ἄρχειν εἰκός, is spoken from the depths of the Hellenic soul. With them all international law was positive law, in the narrowest sense of the word. The individual Greek tribes to be sure, whose hostility to the barbarian made them feel akin to one another, were united by the Amphictyonic Confederation, which was originally a purely religious bond, and also by a few political axioms held in common, a Hellenic κοινὸς νόμος. Here already we find certain conditions set forth, like the one which forbids the destruction of an Amphictionic town, which dimly foreshadow the possibility of a law which shall go beyond the law of the individual State, and be a link between nation and nation. In actual practice, however, the international policy of the Hellenes continued to be extremely harsh. After the conquest of Platea during the Peloponnesian war the Spartans destroyed the town itself, after putting all its male inhabitants to death; Mitylene was once totally annihilated by the Athenians in the same way. Policy was dictated by reasons of State, pure and simple, and Thucydides himself, perhaps the most independent mind that Hellas ever produced, was able to declare that, for the State, utility was justice. Increasing commerce inevitably brought with it commercial treaties, and a distinction was made between ἔνσπονδοι and ἔκσπονδοι. The most arbitrary dealings were still held permissible towards persons outside the scope of the treaties. Foreign merchants desirous of transacting business under cover of the treaty had to be represented by a citizen of the country.

It was a long time before the Greeks enlarged the narrowness of their mental horizon, which, as far as Europe was concerned, was practically limited to the Balkan Peninsula, and it was not until the period of national decay had set in that Hellenism widened into a Hellenic cosmopolitanism in the States of the Diadochi, as they are called, which were bound to each other by a common speech, and common forms of worship. These States arrest the attention of the political student, because in them we can trace the first feeble attempt to maintain a kind of balance of power between the sovereign States. Macedonia, Syria, and Egypt were rivals for the mastery of the Eastern Mediterranean. The arrangement was that one of the three, generally Egypt, should remain neutral, and try to restrain the other two. This is already a step forward in political history, for the appearance of the idea of the balance of power shows that mankind was beginning to see that States do not exist for the purpose of mutual destruction, but rather in order to co-operate towards the progress of civilization.

The history of Rome, however, proves how little this idea had penetrated the general consciousness of those times. Rome did not belie the innermost characteristics of the antique State. It was against her real wish that she was dragged into a policy of world conquest, but it was in accord with the politics of antiquity which led a State, after every fresh conquest, to enter into a new contest with its new neighbour, and thus gradually to extend upon all sides. The worthy, if somewhat limited *patres con-*

scripti, had none of the width of vision which guided the conquering policy of Alexander, but, according to the ancient point of view, every nation which was not the friend of the Roman people was bound to be their enemy. This was the guiding principle from the time of the Twelve Tables until the reign of Justinian, and it forced the Roman Senate into conquering the world; under the dominion of Rome all the Mediterranean States fell into a kind of perpetual state of siege (*Belagerung-Zustand*).

Like every other aristocracy, that of Rome sought the sympathy of the ruling classes in other countries. In spite of their rapacious policy the Romans, in their *jus fetiale* were the first people to develop the forms of an international law, although these institutions were still imperfect in many ways. After the Mediterranean races had been incorporated within the Empire, the truly magnificent characteristics of Rome's political development began to display themselves under her monarchical rule, and Roman jurists attempted to interpret the idea of the *jus gentium* as being positive public law, embracing the whole Empire.

The tendency to expansion gave way before considerations of stability and security upon the frontiers. Under the Emperors, the legal inequalities between subjects were levelled more and more. Even in Cicero's day several provincials had taken their seats in the Senate, and in the time of Caracalla every man received the rights of Roman citizenship. By this time the *jus gentium* had become more than a mere

phrase, and side by side with the conception of it we find the idea of a natural right which was thought of as beyond and above all positive law. Nevertheless the Romans wavered in regard to their definition of natural law. Some held that it was a right which Nature had bestowed upon the human race, while others spoke of it as common to all living creatures (*proprium omnium animalium*). This latter opinion found advocate in a jurist of great distinction. Great as was the legal acumen of the Roman people, they had not yet attained to a firm grasp of the philosophical idea of law.

When the dying Empire began to fall asunder, and political power passed more and more away from the decrepit centre to the fresh vigour of the provinces, the *orbis terrarum* was gradually romanized. The Germans, into whose hands Rome's heritage now fell, brought two new political forces into the development of history—a real monarchy and the germ of a representative assembly. But even though they added to those many other of the qualities of mind which go to the up-building of an international code, and although they yielded a naïve admiration to the superior civilization of Rome, they still had not the strength to amalgamate politically such a variety of national elements. In many of the German States which arose out of the ashes of the Roman Empire, a system of personal rights prevailed; that is to say, the ruling Germans were tried by German law, and the subjugated Romans or provincials by the law of Rome. These embryonic legal conditions

were, however, as favourable to the peaceful intercourse of nationalities as they were destructive to the idea of political unity.

Next came the mighty influence of Christianity, with its belief in a universal brotherhood, and in this Christian conception lay the real force which brought a law of nations into the world. The cosmopolitan tendencies of our religion were clearly shown in the Pope's claim to all unapportioned heathen territory, in virtue of his position as the ideal ruler of Christendom. Thus did the German Knightly Orders receive the land of Prussia from the Pope. This legal axiom retained its practical application until the end of the Middle Ages; in 1494 Alexander VI. had just completed that great partitioning of the seas which had led to so many contests, and which dragged to light so many errors in the geographical knowledge of the infallible Pontiff. Thus did Christianity early prove to be one of the strongest bonds to draw the nations together. The young community of European States reposed thenceforward upon three foundations: upon a common faith; upon that Roman civilization which they all had profited by, and from which had proceeded the Roman law which had had a restraining influence upon all of them alike; and, thirdly, upon the kinship by blood between the German state-building races. When we remember how the feudal system, in particular, assumed a nearly similar form in every country, we can understand how intimate the national relationships must have been, in spite of all barbarisms of manners.

From the twelfth century onwards we have in addition the struggle of the Latin races to win the Holy Sepulchre. It is impossible to express how great was the uniting influence of the Crusades upon the Western nations. Nor was it only among themselves that an international code of gallantry and chivalry arose, but a kind of international intercourse came into being between Crusader and Musulman as well; a knightly opponent like Saladin could only be treated in knightly fashion. The idea asserted itself nevertheless that an international code could only apply between Christian nations. No bond could be entered into with any heathen State, if only for the reason that every such bond was always sworn upon the Host. The sanctity of the law of nations was therefore not yet sought for in the thing itself, but subsisted in religion. It was an important step in the progress of international intercourse in the Middle Ages when the Pope first instituted the custom of permanent Ambassadors. His example was followed by the theocratic State of the German Orders, which sent a Procurator to represent it in Rome. This was the beginning of a settled diplomacy. The other Powers, however, as yet felt no necessity for anything of the kind; nobody troubled about his neighbour unless there was some dispute regarding a frontier to be fought out. Although the mediaeval Christian world possessed the vision of an ideal unity, the interests of the different States were in actual fact severed by difficulties of communication and backwardness of civilization. A community of interests, or a

system of States, were still undeveloped. A war might go on for a hundred years between Germans and Italians, quite distinct from a contemporaneous struggle between English and French, without the remaining Powers having any idea of intervening. The idea of a practical comity of States had not yet penetrated into the flesh and blood of the nations.

In the sixteenth century the Reformation brought a great forward stride in this direction. It contributed towards forging closer the links between nations, by emphasizing community of faith more than community of race. Thenceforward German Princes have often sinned against German unity, by allying their arms with foreign Powers of like religion to their own. In the Thirty Years' War German and Swedish Protestants stood side by side against German and Spanish Catholics. Even the French Catholic feels himself nearer to his Spanish co-religionist than he does to the French Protestant. Thus the Reformation created a cleavage of religions on the one hand, and on the other drew the different nations together under the banner of the same faith, and in the sixteenth-century religious loyalties attained a power which overshadowed nationalities entirely. The contentious faith of Calvin exercised a particularly cosmopolitan influence, which could not entirely disappear when the religious antagonisms were modified in later times. We must not forget, however, that the Reformation was the very means of breaking the nation-uniting power of the Papacy.

The discovery of the New World had the effects

of tightening the bonds which connected the peoples of Europe. It is true that the founding of colonies beyond the seas gave occasion for many conflicts, but it had a unifying effect as well; the feeling of fellowship was quickened among the European States when the Caucasian race began to form a great aristocracy for the subjugation of the savage peoples. The efforts of the House of Hapsburg to form a single State were a further factor in the development of a comity of nations.

Terror of the world-power of the Hapsburgs led the sixteenth century into the most unheard-of alliances, which even included the power of the Turk. France's most Christian King sought the friendship of the unbelieving Sultan. On all sides the Holy Roman Empire began to crumble, and the unreason which prompts every attempt at universal monarchy was revenged in the revival of the inextinguishable idea of nationality, which, with a certain one-sidedness, now took possession of each individual State.

From the sixteenth century onwards we find States maintaining permanent Embassies. The Venetians improved upon the example set them by the Pope, and became masters in the diplomatic art. Thus in the seventeenth century the Congress of the Peace of Westphalia offered the astonishing spectacle of a Conference of Ambassadors from every State, laying down the frontiers for the individual countries. This Peace of Westphalia came to be looked upon like a *ratio scripta* of international law; every one uttered thanksgiving that some sort of *status quo* had now been

established. People began to feel themselves part of an organized European society, and all the sovereign States began, as it were, to form one great family. Then, just as every member of a well-ordered household must have his allotted place, so the different countries disputed about theirs, often in a most ridiculous fashion. No one dared as yet to contest the theoretic precedence of the Emperor and the Pope. After them came all the States which ranked as Kings, Venice among them, as being Queen of Cyprus, then followed the Netherlands Republic, and finally the cloud of petty German Princes.

We are now entering upon the period of the so-called "reasons of State," which followed the teaching of Machiavelli, and held everything right and justifiable which the interests of the State dictated. This theory was entertained by every Government, and led finally to the notion of the balance of power in Europe. The system was not quite new; it had existed in the fifteenth century, on a small scale, among the States of Italy, when five Powers—Naples, the Pope, Tuscany, Venice, and Milan—had tried to hold the balance of power between them. This idea spread throughout Europe, and became a doctrine, as mechanical as it was the fashion of that age to make it, which is often represented in pictures by the image of Europe as a great pair of scales, whose poise had to be carefully preserved. The whole idea is crude, and as thoroughly unpolitical as the notion of an eternal peace, for, as we have already seen, the frontiers of States must be continually liable to fluctuation, and may not be thrust into narrow

fetters. Nevertheless the point of view was wholesome for that period, for it acted as the only check upon the encroachments of some one powerful State, which were otherwise unrestrained. The theory persisted still in the eighteenth century, and the three great partitions of Poland are the last evidences of its influence.

The disappearance of elective monarchies in favour of hereditary States was advantageous to political development, for the reason that the local conditions prevailing in the former easily led to wars and interference from without, for which there were far fewer opportunities in hereditary Monarchies and well-established Republics. All the larger States began to be permeated by the principles of primogeniture and indivisibility of territory. Thus there were not so many occasions for Wars of Succession, and the gradual rise of standing Armies also contributed towards keeping the peace. It was one thing to improvise a campaign with a few hastily assembled troops, but quite another to conduct a war with a standing Army and adequate finance.

The Peace of Westphalia was supposed to have established the *status quo* for Europe. It humbled the world monarchy of Spain, which reposed upon firmer foundations than did the mediaeval Empire, and which had been a dangerous menace to the liberty of Europe. The Peace of the Pyrenees in 1659 had put an end to the long conflict with France and had destroyed the power of Spain. Its place was filled by France and the rising sun of Louis XIV. and his "exorbitant" Court, a source of danger to the other

Powers because it followed a wider orbit and pursued unattainable aims. The ambition of Louis was to place France at the head of the Roman States, and to win back for his country its natural frontiers, so called. Now for the first time was witnessed the hitherto unheard-of spectacle of uninterested Powers being dragged into the contest between two States, in order to uphold the *status quo*. The intervention of the neutrals and the Triple Alliance of Holland, England, and Sweden forced Louis to make peace earlier than he had intended.

The international relationships of the seventeenth century were unnatural nevertheless, inasmuch that Germany, the heart of Europe, lay in an impotence for which she had only herself to blame, and the Fatherland of Luther was in no condition to stand as a compact Power in defence of the Protestant Faith. The whole disgrace of the situation was exemplified by the small part which the two deciding Powers, Brandenburg and Electoral Saxony, took in the Thirty Years' War. Neither of them took an active share for more than four years, and they remained neutral for the other twenty-six. Two States stepped into the breach in our defences; they were Holland and Sweden, which were both too weak, by reason of their scanty population, to hold permanently their unnatural position among the Great Powers of Europe. The Hague became a centre for diplomacy, and it is significant that Hugo Grotius, a Dutchman, was the father of the science of international law. We owe to Holland, not only the maintenance of Protestantism, but also the

breaking of the naval power of Spain; hers is the honour of restoring the preponderance at sea to the Protestant Germans, by wresting it from the hands of the Catholic Romans. Towards the end of the century the military policy of Louis XIV. was directed towards conquest of the Rhine frontier, and the great coalition was formed against him which finally terminated in the War of the Spanish Succession, and after a long struggle destroyed the undue weight which France had for a time possessed, and relegated her once more to the rank of the other Powers. The great drama of the Scandinavian War was being played out at the same time in the eastern half of Europe, but the two contests had no connexion with each other, and are therefore not to be described as European. They were followed by the great treaties of Utrecht and Nystadt, whose decisions were held inviolable through many years to come, for men thought once more that they had found the *status quo* for Europe, and began to dream again of an eternal peace; it was supposed that the world had been brought to a standstill by the latest peace Congresses. When we examine more closely how nearly the map of Europe at the time of the Peace of Utrecht expressed the real requirements of the different countries we see how far it was from realizing the hopes which were entertained. The community of States was divided into two groups, whose interests made them antagonistic to each other. Southern and Western Europe struggled over the remains of the old Lotharingian Empire, and disputed for power on the Rhine, in Italy

and in Switzerland, while the North and East fought for the *dominium maris Baltici*, and whether it should fall into German, Polish, Russian, or Scandinavian hands. To us it seems monstrous that two great wars could be waged for so many years side by side, and yet remain entirely separate; it proves that as yet there was no unity in international politics. As before, the reason lay in that lack of any concentrated will-power which prevented Protestant Germany from taking her rank among European States. While the political conditions of Central Europe were still thus immature, we perceive how the two Powers who had been raised unnaturally to the first rank in the seventeenth century withdraw gradually into the background. Sweden ceased to be a really great Power, and her land-power was transferred to Prussia; while Holland experienced the stern truth of the old *sic vos, non vobis*, and was smothered under the tender embraces of her friend England. From the moment that one monarch reigned over the two countries Holland was exploited in all amity to serve English ends, and gradually became the second of the Sea Powers, after having so long been the first.

The cleavage between East and West was never fully bridged, until a genius arose in Prussia, and taught her to be conscious of herself. On this Prussia's greatness reposes, and she was called by Providence to span the gulf. Since the days of John Sigismund the geographical position of the State had made it part of both systems. Frederick I. had failed to understand this, and

had thrown the whole of his power in with the West; his hosts had fought desperately and victoriously at Malplaquet and Turin, and advanced to the Alban hills and the walls of Rome, even while the forces of the North were sweeping unhindered through Prussia, and treating it as conquered territory. The country was sacrificed to Austrian policy, for not in vain did a Guelph Princess sit on Prussia's throne. Frederick the Great was the first person to see in what direction the importance of Prussia really lay; young as he was when he wrote his brilliant *Considérations sur l'état présent du corps politique de l'Europe*, he expressed in it his consciousness that he had the power within him to break the stagnation which he depicts so strikingly as settled upon Europe after the Peace of Utrecht. The Seven Years' War was in fact the first European War in the proper sense of the word. The whole of Europe took part in the struggle, and, as the victorious outcome showed, Prussia had at last infused Central Europe with a political will of its own, so that the comity of nations began to assume coherent shape, and it became apparent that Prussia's fight for existence had at the same time been a fight for a reshaping of international relationships. Five great Powers thenceforward become arbiters of the fate of Europe; the importance of the second and third rank States dwindles more and more relatively as well as absolutely, and their participation in Congresses is only requested when their interests are directly concerned. Only two of these five great States were Catholic, two others were Protestant, and

one schismatic. The European world had thus diverged widely from its mediaeval aspect, and it is not hard to understand why the Vatican hated Prussia who had been the foundress of the new order of things.

The rapid development of maritime law in the years that followed is a proof of how closely the interests of this Pentarchy were intertwined. There was a connexion between the Seven Years' War and that great colonial struggle between France and England which finally decided whether the dominion of the seas should rest with the Latin or the Teutonic race. England's victory was so complete that her maritime preponderance endures to this day. She made every fresh triumph over France a new occasion to trample upon international law, and monstrous injustices to neutrals were perpetrated at sea in the name of justice and fair policy. A feeling of malicious pleasure swept over every country when the American Colonies, who had fought so valiantly on England's side in the French war, at length shook off her rule. During the Seven Years' War England's anxiety about her own material interests and the Russian timber trade had prevented her from protecting our Baltic coasts or making war with our enemy, Russia. In 1780, however, Catherine the Second concluded a treaty with the small northern Kingdoms, and afterwards with Prussia and Austria, which aimed at securing freedom for legitimate trade to neutrals in time of war. The defection of the American Colonies had somewhat shattered the preponderance of England on the sea, even as

the War of the Spanish Succession had lowered the position of France. The mere existence of the young Power forced England to moderate, at all events outwardly, her claims to naval supremacy.

A fact of no less importance was that a non-European State was now for the first time acknowledged as civilized, and recognized by international law. In this also Prussia led the van. It was owing to Frederick the Great, and his commercial treaty with the United States, that a nation dwelling beyond the western horizon was now admitted as having equal rights with the peoples of Europe. Till then, the New World had been regarded as the servant of the Old. This point of view now slowly began to alter, but in spite of this the Law of Nations was still confined to Europe. The dreamers' hopes were falsified, and it was proved that the other quarters of the globe were not in a position to create a civilization which could compete with the culture that was innate in Europe and coeval with her growth. Colonial life is as a tree without roots, and therefore Europe remains the heart of the world, while we, who know that world, may safely prophesy that so it will always be.

The French Revolution caused a sudden interruption, and a reaction for the worse, in the development of international relationships. The mad attempt to found a universal Empire was once more seriously undertaken. The Revolution was from the beginning cosmopolitan in character. The French imagined themselves as the Messiah among nations, and the supposition was inevitably accompanied by a policy of conquest.

We know now how Napoleon, as heir of the Revolution, tried to realize the monstrous plan of a world monarchy, which he, almost cynically, dubbed a Federative System. His ideal was of a France surrounded by her satellite States. At first Fortune favoured the gigantic adventure, but it was wrecked at last on the rock of its own unreason. Napoleon's universal Empire was shattered by the War of Liberation, and the centrifugal tendencies regained all the more strength because the enterprise of this human being had mocked at history and trampled on the development of centuries. Thus we mark the rapid return to pre-Revolutionary paths in the Congress of Vienna, which was to lay the foundations of the new ordering of Europe. Thenceforward its fate was decided by the five great Powers, who once more graciously included defeated France among their number. Their preponderance was heavy, sometimes even oppressive. Alexander I. of Russia saw the world as a great Christian brotherhood, and the idea of a unity among the States of Europe was driven to death in the notion of the Holy Alliance, merely theoretic though this was. It made demands upon the individual States which no sovereign State could grant. Nevertheless the long peace which followed did bear fruit in the development of international law; the far-reaching trade relationships came into being, which all such alterations must of necessity call forth. The rights of aliens and an international civil law were now for the first time established and organized.

The world believed, as it had done a hundred years before, that the normal and abiding conditions had been created by the decrees of Vienna. These were quoted and appealed to on every hand, and it seemed once more as if the wheel of history was expected to stand still. Yet, when we look at the map as it then was we are as much amazed by the shortsightedness of statesmen in the Congress of Vienna as Frederick was by the lack of vision in the Utrecht decisions. The weakness of Italy and Germany was the cause of the unnatural predominance of France, which could therefore never be rectified until these countries were strengthened; Gneisenau had stated as much before the Congress met, and his conviction was shared by Stein. Nevertheless this problem of Central Europe was the very one which the Congress left unsolved. Germany still lay powerless beneath the nominal unity of a Federation, and all our neighbours took a tacit oath in Vienna to hold Prussia down. Italy too was left unstrengthened by any firm bond. The system of buffer-States was devised to prevent mutual contact between the great Powers, by interposing those of the third rank, like Piedmont in the south, or the Dutch-Belgian State in the north, put together out of two quite inharmonious ingredients. The whole conception of the life of States and nations was mechanical in the extreme, and the great dormant antagonisms between Prussia and Austria, and between the alien yoke of the latter and Italian aspirations, were entirely disregarded.

It was therefore very soon apparent that the

Vienna Treaties were not the *ratio scripta* which Metternich and the partisans of the Hofburg had proclaimed them to be. They were followed by revolutions in Spain, in Italy, and in Greece, and finally by the revolution of July, which, in dethroning the Bourbons, struck down one of the pillars of Legitimacy. After a struggle Belgium once more regained her independence, separated from Holland, and became at once the Paradise of priests and the home of the phrase-makers of Liberalism. To all this we must add the new antagonisms which arose in Europe. The States of the liberal West took their stand upon the one side, those of the reactionary East, with the Czar Nicholas at their head, upon the other. Moreover, the period was dominated by the unreasonable notion that international differences must follow the same lines as internal politics. It is always a sign of political doctrinairism when the party cleavages within the various States determine the antagonisms of foreign policy. Palmerston, well knowing the folly of continental Liberals, masqueraded before them as the champion of liberty, whereas he was really thinking only of his bales of cotton; the Czar Nicholas was in the same way a doctrinaire on the subject of Legitimacy.

These differences were brought into prominence in the follies of the celebrated disputes over intervention or non-intervention. The States in the Holy Alliance had driven the idea of interference with the party quarrels of their neighbours much too far. They had declared that the interests of public order required that the Great Powers

should be entitled to intervene if the peace of a State were disturbed from beneath, by popular risings. What could be more unjust than this principle, which allowed interference in the case of a national upheaval, but withheld it if a Government was attacked from without? The Quadruple Alliance came to be looked upon, justly, in the light of a police force, oppressive to the liberty of nations. The opposite Liberal doctrine of non-intervention was, however, equally untenable. No sovereign State can engage itself beforehand never to interfere in the internal dissensions of a neighbouring State, for these might at any time become a menace to its own existence. The character of certain parties, socialistic or ecclesiastical, will always be cosmopolitan and international, and no sovereign Power can ever undertake to abstain from interfering with them. We can only say that any State which mixes itself in the internal affairs of its neighbours does so at its peril, and that experience has proved how highly dangerous such intervention may be.

In those years the contests between States were fought round this disputed point. Meanwhile the structure of the Vienna Congress began to crumble stone by stone. It was an irony of history which forced Metternich in 1846 to pull down the Republic of Cracow, a State which he had himself set up. It was at the same time the suicide of the old system, for it was an admission of the coming shadow of great events. With the year 1848 they came. France once again witnessed the collapse of authority; slumber-

ing forces of nationality were roused in Italy and in Germany, and in both countries the movement towards unity began. The Prussian Zollverein had paved the way for it in Germany, but in Italy nothing had yet been done. With us, as with them, the first attempt to erect a national State was frustrated. The conservative Powers were able once more to suppress national sentiment in Italy, and to prevent the antagonism between Prussia and Austria from coming to a head. To all appearance the old balance of power, which had rested upon the weakness of Central Europe, was again restored. Italy smarted under a visible foreign dominion, and the same yoke pressed on Germany in a concealed form. The misfortune which hindered our development lay in the fact that part of our nation looked upon Austria as primarily a German State.

The problem of how Central Europe should be organized as a national Power continued to be the real great crux for the European system of States. A new turn was given to the question by France, or, to speak more correctly, by Napoleon III., a man whom posterity will judge more fairly, for the French still know him only as a scapegoat. When we remember how little influence France had had upon European history since the fall of Napoleon I., and how Napoleon III. raised her again to the rank of a first-class Power, even although she lacked the physical and intellectual force to maintain that position, we shall not be able to dismiss this man with a couple of phrases. It was he who devised the

entanglement of the Crimean War whereby Russia was deposed from her leading position among the Great Powers, and her place was filled by France. Another important result of this war was the total dislocation of the European alliances. Austria and Russia had been so closely bound together that their friendship had become a dogma of reactionary faith, but Austria now adopted a half hostile attitude towards Russia, although her interests did not compel her to do so.

In other ways as well, the Paris Peace Congress of 1856 had an important bearing on international relationships. The liberal predilection for Turkey, a confusion of thought arising from hatred of Russia, led to the unreasonable attempt to include the Porte among the European States, although a Power which was neither European nor Christian could not possibly take its place in a system which was based upon those two attributes. Therefore the equal status which was accorded to Turkey by the Paris Congress remained one of name only, and in actual fact she continued as heretofore, under the guardianship of other Powers. Finally, an attempt was made in Paris to modify maritime law. England granted certain concessions, and recognized the principle which was demanded by the navies of the second-class Powers that the flag should cover the cargo. Her own demand for the abolition of privateering was, fortunately, frustrated by the objection raised by America. Humane in appearance, it was fundamentally selfish, for, since England is stronger than any other Navy upon the sea, privateering is the only way of

doing anything against her superiority; England can only be seriously injured in a naval war by the infliction of as much damage as possible to her mercantile marine.

The great Civil War which soon afterwards arose in America, and its resultant Mexican complications, had an important influence upon the law of nations. The Monroe doctrine, "America for the Americans," stood its test, and Napoleon's attempt at intervention in Mexico failed.

Finally the great national movements in Central Europe came also to their fulfilment: in 1859 the Italian rising, which led in a short two years to a United Italy, and from 1866 onwards, the decisive events in Germany. The victory over France was the death-blow of the old system. After the battle of Sedan France showed herself as incapable thenceforward of ruling the world as Spain had been after the Peace of the Pyrenees. From then onwards the map of our Continent has been much more in accordance with nature. The middle was strengthened, and the brilliant idea which put Europe's centre of gravity in its right place, was made a reality. The founding of the German Empire works automatically for the calm of the system of States, inasmuch that the ambition of Prussia may now be soothed, for, in all essentials she has attained the power which she requires. The menace to the peace of Europe to-day is a reaction on the part of those surrounding States which have been gradually driven into the background, and which cannot console themselves for

the loss of their former power. This rise of Germany to the rank of a real Power is the one great change in the political conditions of Europe which began with the year 1866; the other, whose results are not yet fully matured, is the entrance of Italy, as a sixth Power, into the European Pentarchy. Spain's pretensions to the title are merely formal, and based purely upon vanity. We may say of Italy, on the other hand, that she is beginning to figure as a Great Power, without actually as yet being one. If she wishes to assert her position in reality she must fight for it; the day must come when she will once more remember her destiny as a Mediterranean State. Her first victories will raise her to the rank to which her brilliant talents undoubtedly give her a claim.

Such, then, is the position of Europe itself. Beyond its borders conditions have been astonishingly altered, and changes have taken place in the course of little more than half a century greater than the world has ever seen before. China and Japan, countries hitherto hermetically sealed to Europeans, began to open their ports. Australia, too, may be said only to have been discovered fifty years ago, for up till then it had been nothing more than a penal Colony. The proud prophecy of 1860, "the Pacific is awake," has been fulfilled to-day. England, in her rôle of advocate for Liberalism, set all Europe by the ears, and under cover of the latent discontents which she herself had fostered, she conquered half the world. If she continues to succeed in keeping restlessness alive upon the Continent, still more

territories will be thrust into her capacious pocket. It almost seems as if our nineteenth century were the executor to the Will and Testament of the sixteenth, for only within it has the New World which Columbus discovered become a practical reality. The world beyond Europe is bulking larger and larger upon Europe's horizon, and there is no doubt that the European nations must go out to it and subdue it directly or indirectly to themselves. We see the great process of expansive civilization going forward with all the resistless might of a natural force, nor can we yet discern the faintest trace of a balance of power. No one but a fool could imagine that such a development would ever come to a stop, and yet believers in an eternal peace must believe in this doctrine also. No partitioning of the map could be devised which would guarantee it. Moreover, the nations themselves are alive and changing, and no one can say absolutely whether a small nationality will shrivel and perish, or whether it will blossom with an unexpected vigour. Upon this the course of events must depend, but it is obvious that the reshaping process can never cease. Moreover it is precisely in the changeful course of its history that mankind has shown its own greatness, and the fairest fruits of human civilization and culture have ripened.

XXVIII

INTERNATIONAL LAW AND INTERNATIONAL INTERCOURSE

When we ask, does an international law exist at all? we are met by two extreme and contradictory conceptions, both alike untenable, of the international life of States. The first, the naturalistic, whose chief champion we already know to be Machiavelli, starts from the principle that the State is absolute power, and may do anything which serves its ends, consequently it can bind itself by no law in its relations with other States, which are determined by purely mechanical considerations of proportionate strength. This is an idea which can only be disproved by its own arguments. We must admit that the State is absolute physical power, but if it insists upon being that, and nothing else, unrestrained by conscience or reason, it will no longer be able to maintain itself in a position of security. Even the naturalistic school will allow that the State aims at producing order within its own boundaries, but how can it do so if it will be pledged to no law beyond those boundaries? A State which went upon the principle of despising faith and loyalty would be con-

stantly threatened by enemies, and would consequently be unable to fulfil its purpose of being physical power. This is borne out by the experience of history, and we see how Cesare Borgia, Machiavelli's own ideal of a Prince, fell finally into the pit which he had digged for others. The State does not identify itself with physical power for its own sake; it is Power, in order to protect and to further the highest welfare of the human race. Taken without qualification, the doctrine of Power, as such, is quite empty of meaning, and unmoral as well, because it can find no justification within itself.

It is opposed by another, as false as itself, the moralizing doctrine of Liberal theorists. Here we find the State regarded as if it were a good little boy, who should be washed, and brushed, and sent to school, who should have his ears pulled to keep him obedient; he, on his side, is expected to be grateful and good, and God knows how much else. All this is German doctrinairism once again, working mischief in this direction also. All our political transgressions have been caused by the idea which comes so naturally to a highly educated people, that a scientifically incontrovertible principle is in itself sufficient to give a new direction to the world of historical fact. To this belief the Germans owe, not merely their spirit of scientific research, but also their manifold errors of practice. Our doctrinaire professors of international law think they have only to formulate a few axioms, and the nations, as reasonable beings, will be bound to agree to them; it is again and again forgotten that

stupidity and passion have been among the great powers in history. Yet who can fail to see what a real force the passions of nationality have once more become in the nineteenth century? By what authority do individual men, such as Rotteck, Bluntschli, or Heffter, arrogate to themselves to utter such a "Thou shalt!" to the State? No human being stands in a position to place positive binding commands upon all governments alike; he must realize that the reasons on which his precepts are based are liable to be modified and overcome by life as it is lived. This deals the death-blow to the false conception of some imaginary law. Only a positive law, then, remains, and no amount of theorizing can lay down principles for it, unconditionally and without more ado. All the labour of science can only prepare the way, until the truth and reason in certain principles of law become a living conviction in the nation. The abstract conception of the State, if it is to be carried to its logical conclusion, requires the existence of some supreme power on earth, endowed with external authority. Thus we are inevitably led to St. Peter's Chair, for this supreme authority cannot be vested in any earthly body, but only in the Representative of Christ, who claims to speak in the name of God. No such power, however, ought to exist here below, for our world of beauty ought to be a world of liberty as well. It is evident that this effeminate sentimental conception of the law of nations has only been logically formularized by ultramontane thinkers. The great Code of the Jesuits has carried it to its

correct conclusion; the world is there seen as an Ethnarchy and the nations therein as an ideal community, presided over by an Ethnarch, the Pope, who, by his spiritual exhortations and influence, can coerce the individual States, and set limits to the sphere of each, and thus uphold the law among them all. There can be no other logical practical conclusion to an argument which regards the State as a personality acting under orders. There can never be an international law which will impose itself upon the Great Powers as a practical restraint, by the mere fact of its theoretic scientific existence.

We must recognize, then, that these extreme views are both of them untenable, but we need not despair of establishing a doctrine of international law which is workable, because based upon the facts of history. In doing so it is above all important not to make greater demands upon human nature than its frailty can satisfy. The idealist who loses sight of this principle may all too easily become a disappointed enthusiast. One may be sure that any one who declaims that brute force is the only arbiter in the rivalries of nations is one of the sentimentalists undeceived who once smoked the Pipe of Peace, and who now, having seen that his dreams cannot be realized in this world, has rushed to the other extreme, and sees a crude cynicism in everything. It is true that all the really great political thinkers do cherish a cynical contempt for mankind in general, and with justice, provided it is not carried too far. Those who do not ask too much of human nature are the most successful in calling

forth the really great gifts which it possesses amidst all its bestiality and liability to err. Therefore we must start from the historical standpoint, and take the State as it really is; physical power indeed, but also an institution designed to co-operate in the education of the human race. As physical power, its natural inclination will be to seize as many of the necessaries of life as it thinks useful to itself; it is acquisitive by nature. Every State, however, will of its own accord pay a certain respect to the neighbouring Powers. A more definite feeling of law will be evolved by time out of the dictates of reason and a mutual recognition of personal advantage. Every State will realize that it is an integral part of the community of other States in which it finds itself placed, and that it must live with them on some kind of terms, bad or good, as the case may be. These reflections will arise from very real considerations of reciprocity, and not from love to mankind.

The formal side of international law, dealing with such matters as the inviolability of the person of Ambassadors, and the ceremonial therewith connected, was fixed comparatively early, and in modern Europe diplomatic rights are absolutely settled. It is safe to say that this department of the law of nations is much less often infringed than the internal legal ordinances of the average State. Nevertheless the existence of international law must always be precarious, and it cannot cease to be a *lex imperfecta*, because no power higher than the States themselves can be called upon to arbitrate. Every-

thing has to depend upon a mutual give-and-take, and, since the supreme compelling authority is lacking, the co-operation of science, and above all, the force of public opinion, will have an important influence. Savigny declared that international law was no *strictum jus*, but continually in process of development. But this is a long way from asserting the impotence of the law of nations, for changeful as it is, its influence is palpable, and we can follow its consequences step by step at the present day. There is no doubt that the development of modern international law has been quite particularly modified by Christianity, and the cosmopolitanism, in the noble sense of the word, which Christianity has introduced, and which goes beyond and above the State. It was therefore quite reasonable and logical to exclude the Porte, for many hundreds of years, from the scope of European international law. The government of the Sultan had no claim to a full share in its benefits so long as the Porte was dominated by a Mohammedan civilization. Only in later times, when Christianity had gained strength enough in the Balkan Peninsula to drive Mohammedanism somewhat into the background, was Turkey included in the international negotiations of Europe.

History shows us how great States spring to life from the ashes of their smaller brethren. These great States finally attain to a measure of strength which enables them to stand upon their own feet and to become sufficient for themselves. When they have reached this point they

are anxious to secure peace, for the safety of their own existence and the civilization of which they are the guardians. Thus an organized comity of nations, or so-called system of States, arises out of the mutual guarantee of law. This necessarily presupposes the existence of at least an approximate balance of power between the States. We have seen how very mechanical this idea became at one time in its application to European polities, but nevertheless it contains a kernel of truth. We cannot think of it as a *trutina gentium* with its scales exactly suspended, but any organized system of States must assume that no one State is so powerful as to be able to permit itself any license without danger to itself. Here the superiority of Europe to the unripe political world of America at once becomes apparent. Nothing obliges the Union to place any restraint upon its actions, and the small South American Republics have only been spared a direct interference with their affairs because the connexion between them and their greater neighbour is still slight.

Gortschakoff was perfectly right when he said that the last International Congress would promote the interests neither of the nations which always fear attack, nor of those unduly powerful countries which believe themselves strong enough to take the offensive. The observation hit the mark, as may be proved by an actual example. Countries like Belgium and Holland, which, to the great detriment of that science, have unfortunately so long been the home of international jurisprudence, adopted a sentimental view of it,

because they lived in constant fear of aggression. In the name of humanity, demands were made upon the victor which were unnatural, and unreasonable, and irreconcilable with the power of the State. The Peace Treaties of Nymegen and Ryswyk both show how Holland was regarded in the seventeenth century as the arena of *la haute politique*. Switzerland held the same position later, and few persons nowadays reflect how ludicrous it is for Belgium to look upon herself as the chosen centre for the science of international law. As it is certain that all such law must be grounded upon practice, so it is equally certain that a State whose position is abnormal will also be the occasion for an abnormal misconstruction of the principles which should govern it. Belgium is a neutral State, therefore incomplete by its very nature; how is it possible to expect a sound and healthy law of nations to proceed from such a source? I must ask you all to keep this in mind when in time to come you are confronted with the voluminous Belgian literature on this subject. There is, on the other hand, a State in our midst to-day which believes itself to be always in the position of the assailant, and which is consequently the fountain-head of barbarism in international law. It is the fault of England, and of England only, that in time of war the maritime law of nations continues on the level of privileged piracy. Thus we see that, between nations, all law is grounded upon mutual give-and-take, and that it is useless to hold up the phrases and doctrines of a vaguely general humanity for the edification of the countries

concerned. In this matter theory must be rooted in practice, and practice presupposes a real reciprocity, or, in other words, a real balance of power.

In order to make no mistake as to the real meaning of international law, we must always remember that it must not run counter to the nature of the State. No State can reasonably be asked to adopt a course which would lead it to destroy itself. Likewise every State in the comity of nations must retain the attributes of sovereignty whose defence is its highest duty even in its international relations. We find the principles of international law most secure in that department of it which does not trench upon questions of sovereignty; that is in the domain of etiquette and of international civil law.

In times of peace these agreements are seldom encroached upon, or if they are, the offence is expiated at once. Any insult offered, even if only outwardly, to the honour of a State, casts doubt upon the nature of the State. We mistake the moral laws of politics if we reproach any State with having an over-sensitive sense of honour, for this instinct must be highly developed in each one of them if it is to be true to its own essence. The State is no violet, to bloom unseen; its power should stand proudly, for all the world to see, and it cannot allow even the symbols of it to be contested. If the flag is insulted, the State must claim reparation; should this not be forthcoming, war must follow, however small the occasion may seem; for the State has never any choice but to maintain the respect in which it is held among its fellows.

From this it follows that all the restraints to which States bind themselves by treaty are voluntary, and that all treaties are concluded on the tacit understanding *rebus sic stantibus*. No State ever has, or ever will exist, which is willing to hold to all eternity to the agreements which it signs. No State will ever be in a position to pledge its whole hereafter to a treaty, which cannot fail to be a limitation of its sovereignty; it always intends that the contract shall eventually be annulled, and shall only apply so long as the present circumstances are not totally altered. This principle is often called inhumane, but its logical conclusion shows it to be the contrary. Only if the State is aware that all its treaties only apply conditionally will it go to work prudently in the making of them. History is not meant to be looked at from the point of view of a judge hearing a civil suit. According to that standard, Prussia, having signed the Treaty of Tilsit, would have been wrong in attacking Napoleon in 1813. But this treaty, like others, had been concluded *rebus sic stantibus*, and, thank God, those *res* had been radically altered some years before. A noble nation was given the chance of shaking off an intolerable yoke, and as soon as a people is aware that their time is come, they have the right to make the attempt.

Politics must never discount the free moral forces in the national life. No State in the world may renounce the "I" in its sovereignty. If conditions are imposed upon it which impinge upon this, and which it is unable to prevent, then "the breach is more honoured than the observ-

ance." It is one of the fine things about history that we see nations more easily consoled for their material losses than for injuries to their honour.

The loss of a province can always be accepted as an inward necessity, but a brave people feels continually insulted when it has to endure a servitude, so called. By keeping his troops perpetually upon Prussian soil, Napoleon I. filled the most patient hearts with burning hatred. When a State has been hurt in its honour, the breaking of its treaties is only a question of time, as England and France discovered in 1870, when in their Crimean arrogance they closed the Black Sea to the war-ships of exhausted Russia. Russia was fully justified in using the favourable opportunity of the Franco-Prussian War to set aside this agreement with the tacit consent of Germany.

When a State recognizes that existing treaties no longer express the actual political conditions, and when it cannot persuade the other Powers to give way by peaceful negotiation, the moment has come when the nations proceed to the ordeal by battle. A State thus situated is conscious when it declares war that it is performing an inevitable duty. The combatant countries are moved by no incentives of personal greed, but they feel that the real position of power is not expressed by existing treaties and that they must be determined afresh by the judgment of the nations, since no peaceful agreement can be reached. The righteousness of war depends simply and solely upon the consciousness of a moral necessity. War is justified because the great national personalities can suffer

no compelling force superior to themselves, and because history must always be in constant flux; war therefore must be taken as part of the divinely appointed order. Of course it is possible for a Government to be mistaken about the necessity which drives them to declare it; "War creates no right which was not already existing," as Niebuhr truly said, and, for this very reason, isolated deeds of violence are justified by their successful accomplishment, witness the achievement of German and Italian unity. On the other hand, since not every war is caused by an inward necessity, the historian must keep his vision clear, and remember that the life of States is counted in centuries. The proud saying of the defeated Piedmontese, "We are beginning again," will always have its place in the chronicles of noble nations.

No Courts of Arbitration will ever succeed in banishing war from the world. It is absolutely impossible for the other members of the group of nations to take an impartial view of any question vitally affecting one of their number. Parties there must be, if only because the nations are bound together, or driven apart by living interests of the most various kinds. What European country could have taken a totally unbiassed attitude towards the question of Alsace and Lorraine, supposing that Germany had been foolish enough to submit it to an Arbitration Court? The wildest imagination cannot picture a detached Tribunal in this instance. Here we have the explanation of the well-known fact, that international Congresses are quite capable

of finding legal formulae for the results of a war, but that they can never avert the outbreak of it. A foreign State can only pronounce impartial judgment on matters of third-rate importance.

We have already seen that war is both justifiable and moral, and that the ideal of perpetual peace is not only impossible but immoral as well. It is unworthy of man's reason to regard the impracticable as feasible, but a life of pure intellect is all too often enervating to the reasoning faculty. War cannot vanish from the earth as long as human sins and passions remain what they are. It is delightful to observe how the feeling of patriotism breaks involuntarily through the cosmopolitan phrases even of the apostles of perpetual peace. The prophet Joel prayed that before its day should dawn Israel might call all the heathen to a bloody reckoning in the valley of Jehoshaphat, and Victor Hugo likewise demanded that the Germans should get their drubbing first. Yet again we must repeat—the arbitrament of force is the logical outcome of the nature of the State. The mere fact of the existence of many States involves the necessity of war. The dream of eternal peace—said Frederick the Great—is a phantom, which each man rejects when the call of war rings in his own ears. It is impossible to imagine—he went on to say—any balance of power which can last.

War, however, is the very sphere in which we can most clearly trace the triumph of human reason. All noble nations have felt that the physical forces which war unchains require to be regulated, and thus an international military

law has been developed, based upon mutual interests. This department of international jurisprudence, which fools dismiss as unworthy of a civilized people, is where the science has achieved the most; in modern days we rarely see crude violations of the laws of war. There is nothing in international law more beautiful, or showing more unmistakably the continual progress of mankind, than a whole series of principles, grounded only upon *universalis consensus* and yet as firmly established as those of the Common Law of any given country. It is evident that the law of nations must always lag a few steps behind the law of the individual States, for certain principles of civilization and law must first be developed at home before they can be put in practice in intercourse abroad. Thus it was impossible to have international legislation against slavery until respect for the individual had become as universal as our century has made it. In the course of centuries the instinct for justice between countries has become so strong, that at any rate the formal side of international law may be looked upon as quite secured. The publicity of modern public life has done much towards this end. The days of the English Blue-books are indeed at an end; Blue, Green, or Yellow, they are all alike intended to befog the Philistine in a cloud of incense; nor is it ever difficult for an adroit diplomat thus to throw dust in the eyes of Parliament. Still, the whole trend of political life has come into the open to such a degree that any gross breach of international law immediately causes great irritation in every civilized country.

We will now examine a few of the fundamental principles which have been legally defined primarily by the peaceful intercourse of nations. Every people without exception must nowadays be allowed to pursue uninterruptedly the trade and commerce, the arts and sciences, which are such a bond between different countries. The races of antiquity sometimes forbade other nations to practise some particular industry, whose secrets they looked upon as their own private possession. Even in the time of the later Roman Empire it was forbidden to instruct the barbarians in the art of shipbuilding, and similar monopolies were still practically enforced at the date of the Hanseatic League. In modern days this could no longer happen. No State may deny free competition in trade to its fellows, and this principle is guarded by a system of treaties.

In ancient times, moreover, almost every nation laid claim to some sort of monopoly with regard to the navigation of a sea. In later days it was still held that particular seas, which were not exactly the ocean itself, belonged to certain States, as the Adriatic to the Venetian Republic, the Ligurian Sea to Venice, the Gulf of Bothnia to Sweden, and so forth. Now the sea is only the property of the countries upon its shores as far as their military domination of it extends, that is, within cannon range from the shore, and this limit has been altered again quite recently by the advance of technical science. All such questions are finally decided, however, by the realities of power; if a State is in a position to dominate any sea, no amount of well-meant theorizing

will make that sea free. The Caspian is nominally controlled by two States which border it, Russia and Persia, but the power of the former is such that we may call the Caspian a Russian Sea. If a Government were established in Constantinople which was really able to shut the Bosphorus against every Navy, it could mock at all the declamations which might be hurled against it. For the rest, the ocean is free to every ship sailing under legitimate colours. The policing of the high seas is provided by the Navies of every country, for every ship of war has the right to stop a merchant vessel and inspect her papers. This is the result of an endlessly long and difficult process of development, but all the Powers are now agreed that an occasional inconvenience to their merchantmen is a lesser evil than sea-piracy.

All international rights are guaranteed by treaties between States. It is clear that these must differ in many ways from the contracts of civil law.

The first distinction is that they can only be concluded upon a basis of faith and loyalty, as there is no judge who can enforce their observance. The Athenians were guided by a true instinct when they contracted their agreements only for a limited time. Christian nations think otherwise, and make their treaties for eternity, but, as we have seen, they are made on the understanding that they are only to endure while the conditions of power between the contracting parties are not totally altered. The more this is insisted upon, and the more soberly each

State reflects upon it, the more secure will their treaties be.

There are, furthermore, such things as compulsory treaties. No agreement made by sovereign States in time of peace can ever be so described—little Switzerland, for instance, is perfectly at liberty to make or to refuse a peaceful treaty with ourselves—but, on the other hand, every peace imposed by the victor on the vanquished must be compulsory. Here again we are confronted with the question of who can be arbiter endowed with legal authority to pronounce whether a treaty is freely made. Neither does the law of nations admit of lapse by superannuation, for this is in the nature of a juridical make-shift. For instance, when the law decrees twenty years to be the prescriptive period for theft, the legislator is acting a pretence for the practical reason that it does not pay to go on inquiring into trivial matters after so great a lapse of time. The life of nations, however, is counted by centuries, so that a prescriptive period can only enter into it after long ages have gone by. Frederick the Great was absolutely within his rights when he claimed the four Silesian Duchies for his State, although the treaties which secured them to his House had been made more than two hundred years before.

In international treaties great stress should be laid upon the cautious use of terms, and in this respect also we can trace a great progress in the course of history. In former times it sometimes happened that a treaty which was apparently concluded got no recognition because the pleni-

potentiaries had ostensibly exceeded their powers. Ancient States got out of the difficulty by delivering up the plenipotentiaries, but to-day this is no longer possible. The contracting States are now not only obliged to bind themselves specifically, but a definite period is also laid down for the ratification of all treaties by the supreme authorities concerned, and until this ratification is accomplished the contract is not completed. As a secondary point, States are now bound by their treaties, no matter in whom the supreme authority is vested. The French Republic is pledged to the treaties made by the French Empire. It is therefore important that contracts should be worded as clearly as possible, and, as a general rule, should contain no secret clauses, for these confuse the legal issue by leading the nations, which are ignorant of their contents, to form a false estimate of the obligations for which they are mutually responsible; and they may in consequence become a danger to their own Government.

Old-fashioned Cabinets thought that secret clauses gave them an opportunity of tripping up a rival State, but the weapon was double-edged. Exceptions, of course, there are. When Prussia made terms of peace with the conquered States of South Germany in 1866, an offensive and defensive alliance was secretly contracted, which was kept dark for a time. There were good reasons for this, for when France, in the following year, made her desire for war evident it was publicly announced that North and South Germany would stand together.

There is one subject above all others in which international law may be set upon a firm footing, namely, international civil law, the treatment which a State metes out to aliens. An immeasurable step in advance was made when the foreigner was made absolutely secure of the protection of the law in every civilized country. It is an insult to the human race to say that the law of nations still rests upon mere force. This is untrue, but still men must not demand the impossible of one another. The difficulties spring to light the moment the subject of international civil law is closely studied, for we are faced again with the reservation which all these obligations contain, and we see them subject to each nation's care for its own security. Let us make as many treaties as we like about international civil law, but they must all presuppose that the alien is not troublesome to ourselves. Should he become so, the State must have power to expel him without giving reasons, even if it has signed a treaty which, as a rule, ensures security of residence to the subjects of another Government. It is thus that persons are got rid of who are suspected of being spies or unauthorized agents; discussions of such cases would usually be very unpleasant and injurious to the friendly relations between the countries. It is therefore a perfectly reasonable principle that every foreigner may be immediately driven out with no explanation beyond that his presence is not desired. There must be no tampering with this right, for otherwise honest dwellers in a foreign land will not be left free from annoyance, and consequently

what seems harsh at first sight turns out to be the truest kindness. It is impossible, on the other hand, for the State to be legally empowered to banish its own subjects. If we were to expel the Jesuits, we might at least be sure that they would find an asylum everywhere; but if the State tried to do the same by ordinary criminals, it would simply have to blow them into the air, for no other country would receive them. Strictly speaking, the right of banishment is inconsistent with an organized political society.

The process of time has connected a reciprocal support in the prosecution of criminals with the mutual defence of civil law, and with it a whole series of the most difficult problems have come into being. It is easy enough to state the theory that the whole human race is concerned in prosecuting crime, and among noble nations this principle presents no difficulties until we come to the definition of what crime is. The distinction between ordinary and political crime at once becomes of primary importance. Every State must make the prosecution of persons accused of high treason by another Government dependant upon its own interests. A state of war may be latent between two countries who are outwardly friendly, as is the case with France and Germany at the present time. Again, it may often happen that a man whom the law of his own country regards as a political traitor may be the welcome guest of another nation, and it would be unreasonable to require that they should deliver him up. Agreements can be made in respect of the extradition of common offenders, though no State will engage

itself to refuse its protection to political criminals, but will always reserve the right of judgment for each case. This applies to political offences in general, although there are certain bomb-throwing Anarchists pure and simple about whom a mutual arrangement might be possible.

The exact degree of ordinary crime which involves extradition can, of course, only be settled by positive treaties; but it should in any case be limited to really serious offences. The great differences of legal procedure in the various countries make it imperatively necessary to try offenders as much as possible by their own laws, and experience has shown that this expansion of the powers of courts, as far as can be managed, has had good results.

Out of the joint maintenance of law has sprung an ordered comity of nations, or system of States, which has also received its settled outward forms. The disputes over etiquette in the seventeenth century which seem so ludicrous to us now had the right idea at the back of them in spite of their lack of good taste. Even to-day a difference exists between royal majesty and petty princes, and none the less because unwritten, between the Great Powers and second- or third-rate States. A State may be defined as a Great Power if its total destruction would require a coalition of other States to accomplish. The preponderance of Great Powers is felt on all hands to-day, yet it has been the very means of ensuring a certain security in international traffic. The Congress of Aix-la-Chapelle in 1818 set diplomatic relations on so firm a footing that

all civilized countries now differentiate exactly between the various classes of diplomats. Another result of the undue preponderance of the leading European Powers in modern history has been to exclude the smaller States from taking a part in Congresses unless they are directly concerned in a disputed point. If, however, one of these small countries is consulted, its opinion is given the same weight as that of one of the Great Powers. Moreover, a Congress is not ruled by a majority, but by the *liberum veto* of natural Law. I have spoken already about the unreasonableness of deciding by the vote of a majority when the question at issue is not one of power in which physical strength supports the decision by the many against the few. It is not logical to proceed on this basis in a Congress which is not waging war, but is formulating the results of war, and of whom unanimity must consequently be demanded.

It is not possible to lay down any fixed principles for international policy, for, as we have seen, the unconditional doctrine of intervention is as false as its antithesis. Every State may be placed in a position where the party strifes of another country are a menace to its own freedom. Thus we may find that a cosmopolitan party at the helm of a neighbouring State may lead to consequences so important for ourselves that we are bound for our own sake to interfere. Such intervention is always fraught with danger, for the worship of national independence has waxed so strong in our own day that any meddling with it will produce a strong reaction in other countries beyond the

one directly concerned. Stern experience has taught modern States to hold themselves aloof as much as possible from the private affairs of their neighbours. No dogmas can decide these problems, but when its own safety is at stake a State should, and will, take action.

When a war is actually in progress its guiding political idea is to bring about new conditions of international law which will express the real relative strength of the contending parties and be recognized by both of them. It is, therefore, perfectly equitable to wage war in the most effective manner possible, so that its goal of peace may be reached as quickly as may be. For this reason the blow must be aimed at the enemy's heart, and the use of the most formidable weapons is absolutely justifiable, provided that they do not inflict needless suffering on the wounded. Philanthropists may declaim as much as they like against explosive shells fired into the powder magazines of wooden battle-ships, but still facts remain unchanged. States in conclave have decided what weapons are to be forbidden; the use of explosive bullets for small arms was prohibited at the instance of Russia. It is permissible to take advantage of all the enemy's weak points, and a State may turn treason and mutiny within its enemy's borders to serve its own ends. Nothing but the rapid march of events prevented us in Prussia from making a compact with Hungary in 1866.

It is equally impossible to deny to a belligerent State the right of employing all its troops in the field, whether they be savages or civilized men.

It is important to take an unbiassed view of ourselves in this question, in order to guard against prejudice in respect of other nations. The Germans raised a fearful outcry against the French for letting loose the Turcos against a civilized nation in the last war. It was a natural accusation in the passion of the moment, but our calmer judgment can find no violation of international law in what was done. The principle stands that a belligerent State may, and must, throw all its troops and all its physical resources into the struggle. Where is it possible to draw the line? Which of the charming races which make up its Empire is Russia to withhold from the field? A State is obliged to make the fullest use of all its material strength, but it must do so in accordance with the honourable usages which have been settled by the long experience of war. Yet with all this, the employment of the Turcos places the claim of France to be the leader of civilization in a peculiar light. Thus a whole series of complaints arise because demands are made upon a State which it cannot possibly satisfy. In the national wars of the present day every honest subject is a spy, and therefore the banishment of 80,000 Germans from France in 1870 was not in itself a violation of the law, but was only indefensible because it was carried out with a certain brutality.

There is one rule of humanity in war which is theoretically of universal application, although it is only practically recognized in land campaigns; namely, that it is States who are fighting, and not their individual citizens. Certain definite

signs there must be, therefore, to distinguish those persons who are entitled to fight by authority of the State, and who are to be treated as soldiers. It is an ugly gap in international law that no universal agreement has as yet been reached on this point, although it is the foundation of all humanity in war. A soldier must feel that he has no foe but the soldiers of the enemy, and that he need not fear that the peasant who has met him in peaceful fashion will be shooting at him half an hour later from behind a bush. The behaviour of soldiery in an enemy's country is sure to be unfeeling and cruel if they do not know who they should treat as soldiers like themselves, and who as highway robbers. No one can be recognized as a soldier unless he has taken the oath of allegiance, stands under the Articles of War, and wears some kind of badge which need not be exactly a full uniform. It goes without saying that the irregular levies who hover round the enemy, and do not stand under the Articles of War, should be treated with unrelenting severity. It is urgently necessary that an international agreement should be come to over the forms which make an armed person a real member of a lawful army. The question was discussed in Brussels in 1874, when the difference of interests at once became apparent. Small States like Switzerland had no desire to bind themselves by any obligations.

For the time being every State continues to decide for itself alone which of its opponents it will consider as belonging to the enemy's army, and which are to be regarded merely as robbers.

Many of the *francs-tireurs* of 1870–71 deserve our moral respect by their despairing efforts to save their country, but from the point of view of international law they were highway thieves. As such, Napoleon justly treated Schill and his companions. Schill was a Prussian staff-officer who deserted, who tempted his men to do the same, and who then began a war against France as chief of a band of robbers in the eye of the law. The King's anger against his action knew no bounds, for it was the end of all political cohesion if every staff-officer were at liberty to collect a little army and fight upon his own account. Nevertheless when Napoleon held to the letter of international law he perpetrated an unexampled piece of cruelty, and did a very imprudent thing into the bargain. Every noble feeling was naturally on Schill's side, even as Schenkendorf made him prophesy :

> Und mein König selbst wird sagen:
> Ruh in Frieden, treuer Schill!
>
> (For my king himself will tell me,
> "Sleep in peace, true-hearted Schill.")

Yet with all this the action of the enemy was absolutely in accordance with the law of nations.

When it is quite clearly defined who is part of the army, and who may claim honourable treatment as a prisoner of war, it becomes possible to spare the private property of a hostile country to a very great extent. But here again it is important to understand that national pride must not be insulted in the name of humanity. At that same Congress in Brussels, Prussia proposed

that a conquered hostile province should be administered *ipso jure* by the military authorities of the enemy. This would in many ways be an advantage for material existence. When a general knows that he will have the support of international law in requiring the obedience of the enemy's officials he will impose stricter discipline upon his own troops, and altogether he will be able to act more humanely. Nevertheless there are more important things to be considered than trade and commerce. The German proposal expressed the confidence of a nation accustomed to conquer, but could we seriously desire that Prussian officials should be legally compelled to obey the orders of a Russian general? Such an excess of humanity would not only lead to dishonour but would also be inhumane. We expect our countrymen to resist the enemy by every means allowed. Let us call to mind our experiences in the past. No East Prussian subject can forget how President Dohna wrought against the enemy, and during the Russian occupation, collected the taxes for the rightful king. Are such acts to be forbidden in the name of philanthropy, and does not patriotism count for more? It matters more that a nation should keep its honour unsullied than that a Russian, incensed by such opposition from the sturdy men of Prussia, should burn a couple of villages which he had meant to rule over with his knout. International law must not meddle in kindness' name with the moral possessions of a people.

Private property may be respected to the widest extent, even when the enemy is in actual and

purely military possession, so long as the limits of the hostile army are clearly defined. Requisitions are permitted, and it is a universal practice to give *bons* in exchange; the business of getting these repaid is naturally the concern of the conquered party. The wanton burning of villages, and attack upon private property as such, of which the devastation of the Palatinate by Melac is such a terrible example, is looked upon by all modern civilized States as a breach of international law. Private property may only be injured to the extent rendered inevitable by the exigencies of war. It is mere mockery, however, to apply these principles to warfare against savages. A negro tribe must be punished by the burning of their villages, for it is the only kind of example which will avail. If the German Empire has abandoned this principle to-day it has done so out of disgraceful weakness, and for no reasons of humanity or high respect for law.[1]

The standard of forbearance expected even of civilized nations should not be higher than the feeling for law which is common to all nations, and the State should not be used for experiments in philanthropy. We had a striking example of this truth in the Franco-Prussian War, when, in an access of false kindness, we undertook to respect the private property of France upon the seas. The impulse was noble and humane, but we forgot that among the other States stood England, turning a deaf ear on principle to generous ideas, and moreover we never reckoned that France would not pay us back in our own

[1] Lecture delivered in the winter of 1891–92.

coin. Our unreciprocated generosity relieved France of the necessity of protecting her commerce against our ships of war, and enabled her to keep her whole fleet free for the war. Her marines, and her first-class naval artillery were all brought ashore, and in the course of the winter we constantly had to fight against these naval troops. Thus our action only put weapons into the enemy's hands. Every forward step in international humanity must be founded upon reciprocity.

We must now consider a number of cases in which doubt arises whether the property in question belongs to the State or to private owners. It goes without saying that all the property of the State is the spoil of the victor, and this applies first and foremost to military stores in the widest sense, as State railways, etc. A more difficult question arises with regard to the depôts of the railways owned by private companies, but nevertheless accorded a practical monopoly by the State. There is no doubt that the enemy may make use of the rolling stock during the war, but may he keep the waggons besides ? The nature of the French railways fully justified our decision in the last war : they were State-owned, and we kept the waggons we had taken, in order, when the settlement came, to return them in part payment. The problem of Banks is still harder to decide. There are Banks, such as our own Reichsbank, in which a Board of bankers have an interest as well as the State. Commercially this is an advantage, for it brings the Bank more in touch with the big businesses, and places

it in the front rank of contemporary commercial life. It is, however, an illusion to suppose that it is thus secured from confiscation at the hands of a foreign conqueror. An enemy must undoubtedly treat it as a State Bank, and will not consider the smaller share in it held by private persons. Modern international law lays down that those great treasures of a State which serve the ends of Science and Art are to be regarded as the common property of all mankind and immune from the hand of the spoiler. Formerly this principle was systematically trampled upon.

As regards treatment of the standing army, and of all persons connected with national defence, each individual can claim honourable treatment as a prisoner of war, and all attempts to place such persons in the ranks of their enemy's army is contrary to international law. It is doubtful, however, whether this principle applied to past centuries, for it is one which depends entirely upon the sense of justice of a given age. The mercenary system showed so total a disregard of the finer feelings at the beginning of the eighteenth century that one French Regiment, of German nationality, was taken from the French by the Saxons at Hochstadt, and again later from the Saxons by the Swedes; from the Swedes it passed over to the Prussians at Stralsund, and finally remained with them as the "Young Anhalt" Regiment. Nevertheless, when Frederick the Great put the captive Saxons in the Prussian ranks at Pirna, it was felt that a proceeding which had once been undisputed was now no longer possible. The Saxons de-

serted in herds, and a repetition of the experiment in modern days would palpably be madness, as well as a breach of law.

No one contests the right of every State not only to make war, but to declare itself neutral in the wars of others, in so far as material conditions allow. It is mere boasting when a State declares a neutrality which it is not in a position to uphold, for neutrality needs defence as much as does participation with one of the belligerents. The neutral State must disarm every soldier who crosses its frontier, and should it fail to do so the belligerents are justified under some circumstances in refusing to recognize its neutrality, even if it has only permitted the armed enemy to enter a single one of its villages.

Unhappily the laws of war are still very differently interpreted on land and on the seas, and it is here that the mischievous influence of English power over civilization and universal law cannot fail to strike any one who chooses to see it. The melancholy saying of Schiller still holds good :

> Auf den Wellen ist alles Welle,
> Auf dem Meer ist kein Eigentum.
>
> (There is nothing stable among the waves,
> Where no man calls anything his own.)

Deeply mortifying as this is to our pride, it is true, because even to-day there is no balance of power at sea, and for this we have no one to blame but England. Her superiority is so immeasurable that she can do whatever she pleases. A balance of naval power must be brought to pass before the ideals of humanity and international

law can hope to be realized upon the seas. The modern infatuation of public opinion is often astonishing; again and again countries are belauded which are following false paths; again and again the sentimentalities of Belgian teachers of international law and the barbarisms of the English maritime code are held up to admiration. Every other State would be ready, under certain conditions, to respect merchant shipping in time of war, but England alone holds by the principle that at sea there is no distinction to be made between the property of the State and the property of the individual. So long as one State takes its stand upon this all the others must imitate its barbarism. Of course maritime conditions cannot be quite the same as those on land, because there are many commodities which serve the purposes of war. Therefore freedom for private property cannot be so widely extended at sea, but this is no reason why ocean warfare should to all eternity remain ocean piracy, or why belligerents should be authorized to despoil one another of all merchandise without distinctions made.

Up till now all progress in maritime law has been brought about by the second-class navies. Again and again we see how the Powers are driven for their own sakes to make humane regulations, and in this we have the explanation of the efforts made by the smaller countries to soften the maritime law. We must not suppose that the English are worse individually than anybody else, and if we were in their position we might perhaps act as they do. In the League of armed

neutrality in 1780 the second-class navies laid down, firstly, that the flag should cover the goods, and the enemy's non-military merchandise should pass free in neutral bottoms; and secondly, that all blockades must be effective, and no Power be given the right to declare a blockade of a whole coast which was not actually closed by hostile warships. Treaty after treaty tried to give effect to these principles. England has now at last acknowledged that the flag covers the goods, a concession forced from her by the rise of American sea-power. If it had depended upon Germany, the question of freedom for private property at sea would have been settled long ago by international discussion; but theory has no influence over the law of nations, unless it expresses to some extent the actual relative power of the different States.

From whatever angle we view political science we find that its proper function lies in dealing with that only true humanity which is rooted in the actual facts of history, and that the dreams of fancy are beyond its scope. The destinies of States are accomplished by processes of attraction and repulsion whose final consummation is hidden from mortal eyes, and whose tendencies can only be dimly guessed at. There is no need for us to become critics of history, for the real point is to understand how the Divine plan has unfolded itself little by little in all the variety of actual existence. A practical politician is great if he can read the signs of the times, and foresee more or less the trend of history at a given moment. No quality beseems him better than

modesty. He must not stray with blind uncertainty among the many complex circumstances which he has to handle, but he must concentrate upon the attainable and keep his goal clearly before him. It is my hope that you may have learned from these lectures how many factors go to the making of history and how carefully considered all our political judgments should therefore be. If what I have said has taught you this modesty of true science, I shall be well content.

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THE END

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