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GERMANY OF TO-DAY

BY
CHARLES TOWER

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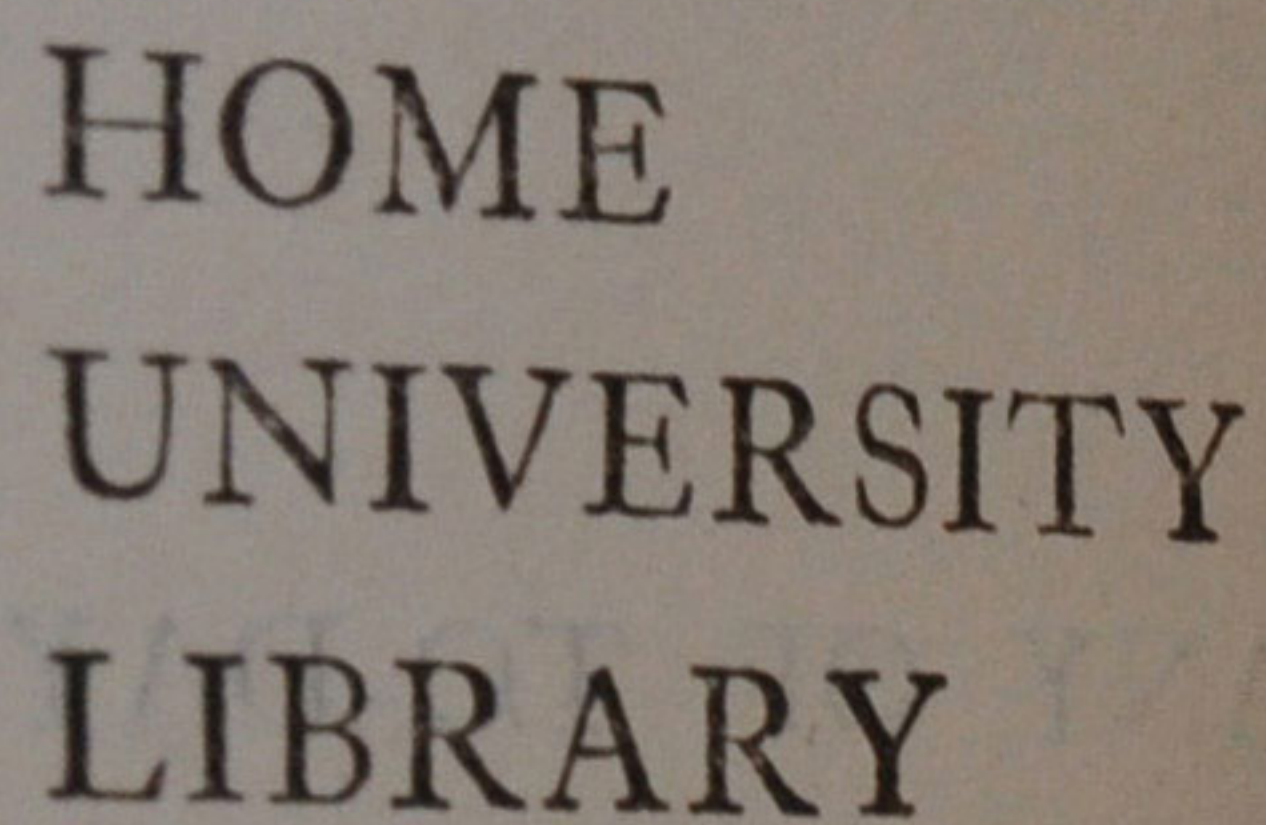
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CHAPTER I

INTRODUCTION

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GERMANY OF TO-DAY

CHAPTER I

INTRODUCTION

IF the future of the German Empire lies, as the German Emperor maintained, upon the water, it would seem to be at least as certain that the past history of that part of Central Europe now included in the Empire has been largely influenced and in part perhaps determined by water: not indeed by the water of the Baltic or the North Sea, but by the water of the rivers, which now, as of old, are the natural and cheapest means of transport, and at times have also formed natural divisions. It is only necessary to recall such catchwords and phrases as, "there must be no line of the Main" (that is to say, the particularist or separatist tendencies of North and South Germany must be made to disappear), or "the Junkers East of Elbe" (that is, the land-owning and ultra-conservative squires of Eastern Prussia), or "the line of the Lippe" (which forms an almost complete division between the seats of the poorer Evangelical

and wealthy Catholic landlords and nobles of Westphalia), to see that even to-day rivers play a great part not only in the unity of the Empire but also in its internal divisions and dissensions.

The Germans, their ambitions, achievements, methods, men and manners are so continuously the topic of private conversation and public debate in English-speaking countries, that sometimes there is a tendency to forget the outlines of the map of the Germany of to-day. In fact, "you forget the map" is apt to be one of the complaints made by German newspaper-writers and even German statesmen when defending German military budgets against the charge of Jingoism. So it is well to begin with the map.

Modern Germany consists, geographically, of a territory drained by the four rivers, Rhine, Weser, Elbe, and Oder, flowing northwards, together with a southern section drained, it is true, by rivers flowing in the other direction, but finding its commercial connection northwards for political reasons. In the development of the modern Empire out of the mere congeries of petty States, formed in part by watershed divisions, it was geographically natural that the northern States should be the first to combine and it was also natural that a struggle should take place before the southern portion of the Empire, south of the Main, broke loose

from its geographically more natural connection with Austria and found its outlet northwards. Hence one might expect to find sharply defined contrasts between the portions of the Empire north and south of the Main, and it becomes easy to bear in mind the fact that all German development has been and still is profoundly modified by the contrast, for example, between the Bavarian and Prussian character and their political, religious and economic tendencies. Even to the present day there is probably too little mutual give-and-take between North and South Germany: there is still a clearly defined "line of the Main."

Leaving out of account for the moment certain accretions, such as Alsace-Lorraine, Schleswig-Holstein, and Prussian Poland, there is yet another marked division whereof politically too little notice is sometimes taken, the division marked roughly by the course of the Oder, to the west of which lies the industrial region of Northern Germany, to the east the agricultural section. Quite frequently discussions in England regarding "Germany" appear in reality to be discussions only about Prussia, and even about one part of Prussia, the old monarchy east of the Oder. It is possible that some of the antipathy sometimes displayed is felt instinctively not for the German Empire, but the old Prussian nucleus,

whose character, manner of thought, and even political aspirations are to quite a considerable extent determined by geographical and geological conditions.

West of the Oder is Industrial Germany, east of it Agricultural. Westphalia, the Rhineland, the valley of the Weser, these are the districts which developed Germany's foreign trade, and for whose protection in their infancy the high tariff-wall was partly destined: these are the countries interested in the "open door," in the maintenance of the best possible commercial relations with all foreign countries, and therefore also in the maintenance of good political relations throughout the world. It is after the traveller from London to Berlin has passed the Porta Westphalica, that picturesque gap in the semi-circle of the Teutoburg hills, that he enters the long and dreary stretch of flat country, which, at first pleasantly pastoral, interspersed with red-roofed villages, and sometimes timbered farmhouses, gradually merges in the pine-forests and sand-dunes of Brandenburg, the ungenerous soil from which the East Prussians gather a hard living. It is, perhaps, not too much to say that the predominance of Prussia in the partnership of which the Empire consists has been brought about precisely by the difference of soil and climate here intimated. In East Prussia, for example,

nearly one-quarter of all the land is naturally unproductive sand, fifty-two per cent. is sand with a greater or less admixture of loam, and only sixteen per cent. is good loam. In the province of Brandenburg nearly half (42 per cent.) is sand and only ten per cent. loam. Hannover has 41 per cent. sand, West Prussia 40 per cent., Pomerania 35 per cent., and so forth. On the other hand Westphalia has 60 per cent. good loam, Hesse-Nassau 63 per cent., and the Rhineland 67 per cent. These figures are perhaps more strikingly characteristic than any amount of description.

The north-eastern part of Prussia knows conditions of climate, extremes of heat and cold, almost as great as those of Central Russia. The farmer has no rich black soil to deal with, but largely sand; timber worth the cutting must be grown carefully; the husbandman cannot eat such things as "grow of themselves," and he grows hard as his labour, ungenerous as the soil, stubborn as the effort which wins him his livelihood. But he also grows strong and wiry. The descent of a hardy mountain or steppe-folk into a soft country of luxuriant natural conditions, easy subsistence, and abundant reward of light labour has almost always in history been followed by a slackening of the national muscles, a dimming of the national

keenness of vision, and presently a relaxation of the national vigilance. That Prussia is to-day the predominant partner in the federation of States called the German Empire may well be due largely to the fact that she has always had the hardest task to subsist at all.

This, however, is the next point to which we must turn. The German Empire is neither the successor of the old Holy Roman Empire, nor is it itself a unity. It is a federation, a close political coalition for certain purposes, chief of which is that of defence. Bavaria, Saxony, and Württemberg are independent kingdoms, Baden, Saxe-Coburg, Saxe-Weimar, Saxe-Altenburg, the Mecklenburgs, are independent Grand-Duchies, the two Reusses are independent Principalities—with their own legislatures, their own constitutions, and in the case of Bavaria and Saxony their own State railways, in the case of Bavaria alone her own coinage and postage-stamps. They levy taxes and excise independently both of Prussia and of the Empire, they maintain diplomatic representatives at each others' Courts, and expect foreign countries to be independently represented at their Courts. But they combine for the purposes of national defence, and thus possess an imperial, that is, a federal army; they are comprised within one imperial

Tariff-Union (the Zoll-verein), they contribute through their individual exchequers to an Imperial Treasury conducted for imperial purposes, and they recognise as visible symbol of this federation, a federal chief, the German Emperor, who is also King of Prussia.

The formation of the Zoll-verein or Customs Union was facilitated by the very differences of soil, climate, and natural resources which we have already noted. The west, rich in minerals, needed the assistance of the agricultural east; the little Duchies and States by the head-waters of the rivers needed unrestricted access to the sea along the water-ways, and the gradually developing industries needed an unchallenged market in the districts which are not industrial. The combination, which was not possessed by individuals, was possessed by all together. But there was, at the time, a still weightier reason why the various German kingdoms and principalities should combine in the form of a federation, however much their mutual antipathies and jealousies might and did stand in the way. This reason was that the individual States had for centuries been the cockpit of European wars, the victims first of this conquering army, then of that, the prize of victories in which they had no share, and the goal of ambitions in which they had no interest. The necessity

for the foundation of the present Federal German Empire lay much less in the bickerings and quarrels of the individual States now included in the Federation than in the quarrels and ambitions of the neighbouring powers, the ambitions and rivalries of foreign princes and of foreign representatives of various creeds. Perhaps the most illuminating illustration of the conditions of life in the German country which ultimately made the Empire a necessity is to be found in a book called "Simplicius Simplicissimus," retailing the adventures of a farmer's son in the period of the Thirty Years' War, and recently published in English. The castles of western Germany have for the most part been blown up or burned, not by the troops of opposing political factions, Roundhead or Cavalier, White Rose or Red, but by foreign aggressors, who ravaged Germany from the Rhine to the Vistula, from the Baltic to the Giant mountains. That they might live at last in peace, might develop their own resources by mutual assistance, the States of modern Germany, led by iron-handed Prussia, came to found the modern Empire.

It is thus geographically clear that the new German Empire might be expected to develop first out of a confederation of the States north of the line of the Main. Politically this must involve a dispute between a

northern and the chief southern Germanic State for the hegemony, in other words, between Prussia and the old hegemon of the Holy Roman Empire, Austria. Such a dispute involved the break-up of the loose alliance which had subsisted since the formal end of the Holy Roman Empire in 1806. It follows that, although actually the present Empire has been gradually developed since 1806, there is a complete break of continuity marked by the foundation of the North German Confederation, the nucleus of the present Empire, by a majority vote of the delegates on April 16, 1867. It came into force on July 1 in the same year, which is therefore the birthday of the North German Confederation, and in reality of its later extension, the German Empire. What had happened is most briefly expressed in the words of the Treaty of Prague after the short campaign between Prussia and Austria: "His Majesty the Austrian Emperor hereby recognizes the dissolution of the existing confederacy of German States and will not oppose a new formation in which Austria shall have no part. Furthermore, the Emperor will recognize the closer federation which the King of Prussia shall establish north of the Main . . . and will admit of the formation of a federation of the States south of the Main; the relations of the

southern federation to the northern bund to be regulated later by mutual agreements between them."

The northern federation consisted of twenty-two States, all the States north of the Main except the Kingdoms of Hanover and Saxony, and the Duchies of Kur-Hesse, Hesse-Darmstadt, and Luxemburg.

Subsequently the two Mecklenburgs, and Hesse, so far as it lay north of the Main (note the sharp river division), the elder Reuss, Saxe-Meiningen, and the Kingdom of Saxony came into the Bund, raising the number of States subscribing to the terms of April, 1867, to twenty-two. The next step was to bring the northern bund into relations with the States south of the Main. The southern confederation provided for in the Peace of Prague was never formed, but even before the formal publication of the terms of the northern confederation, Prussia had made an offensive and defensive alliance with the southern States, providing for the placing of all the forces under the command of the King of Prussia in the event of war, and also providing that all forces should be trained on the Prussian model, thus ensuring uniformity. A military federation was thus virtually in existence before even the North German confederation had been definitely announced, and that early military federation is in a

closer form the basis of the present German army.

We next turn to the commercial federation, the other great binding link in the Empire. A German customs union had been formed as early as 1833, and it still existed in 1866. In July, 1867, the North German confederation made a fresh tariff agreement with the southern States, to run for twelve years, and the affairs of the tariff were regulated by a Bundesrath or Federal Council and a Tariff Diet. The Council consisted of the Federal Council of the North German Bund, together with South German representatives, and the Diet or Tariff Parliament consisted of the Diet of the northern bund together with eighty-five members elected by the south German States on the basis of manhood suffrage in a secret ballot. The Tariff Council was practically identical with the present supreme Federal Council of the Empire, and the combined Tariff Parliament paved the way for the Parliament of the Empire or Reichstag. It needed only an external impulse to develop these special agreements between north and south into a definite agreement or complete federation. The northern bund provided for this future development by the terms of its constitution. Article 79 provided that "the entry of the south German States or any one of them into the federation may ensue upon

the proposal of the presidency of the federation and in the form of federal legislation."

The agreement for united action in the event of war was soon put to the test. The outbreak of the war with France brought the northern and southern troops into the field side by side as had been agreed, and the successful conclusion of the war made the closer union of the States not only rational but inevitable. The southern States came to the conclusion that an international relationship was no longer sufficient; a national relationship must succeed it. The Kingdom of Bavaria notified the presidency of the northern bund in September, 1870, that it did not consider the international agreement any longer sufficient, and "thus it happened that in the latter half of October representatives of all the south German States assembled in Versailles to discuss the foundation of a German *Federation*" (speech of the Chancellor of the Federation, before the Reichstag, December 5th, 1870). It is worth while to note that, in this report of the proceedings given to the Reichstag on December 5th, 1870, the minister (Delbrück) uses the word federation (bund) to describe the new relationship of all the German States to each other.

The line of the Main, created politically by the formation of the North German Bund in 1866, disappeared politically by the entry

of the south German States into the northern bund in 1870. There were three treaties made: first, an agreement between the northern bund, Baden and Hesse, whereby a German bund was formed and its constitution agreed to. In the second agreement the northern bund, with Baden and Hesse, made an agreement with Württemberg, and in the third they made an agreement with Bavaria. Bavaria obtained a number of special privileges, which will be detailed later, and which are called the Bavarian "Sonderrechte." The treatises were in form entries of the various States into the northern bund on condition of certain alterations of the federal constitution. It should be noted, too, that they were not agreements of all the German States severally, but agreements between the northern bund as a political unit and the southern States severally. The new bund, which was even formally only an extension of the old northern bund, was given a new title, the German Empire (not the Empire of Germany), and the president, who continued to be the King of Prussia, was also given a new title, namely German Emperor (not Emperor of Germany).

Such in brief was the development of the Empire out of the close coalition of the northern States. The Empire remains what it was, a federation of States which guard, some

of them with very great jealousy, the smallest remaining item of their independence, and which also watch jealously any suggestion of accretion of power to any one of them such as might disturb the balance between them. Besides the strictly German parts of the Empire, there are certain non-German elements which constitute "problems." Prussia is chiefly troubled by her Polish provinces, acquired at the time of the division of Poland in 1795, and to some small extent by the problem of the Danish strip acquired by her victory over Austria. The third problem was that of the territory ceded by France after the war of 1870. The Alsace-Lorraine territory was acquired by the victories of all the German States. It was, therefore, vested as a proprietary district in the new bund, and became *Reichsland*, Imperial territory. Recently the question of arranging the final relationship of the Reichsland to the Empire became acute, and there was not wanting a demand that it should in some way be more closely attached to Prussia than heretofore. The other States would have raised an exceedingly vehement protest had the proposal actually reached maturity, but finally the Reichsland was given a constitution with an electoral assembly and a second chamber. Its nominal head is a viceroy, who represents the rights of the original federal

States, but it has been made a member of the federation with a voice in federal discussions and agreements and a seat in the Bundesrath, or Federal Council.

Thus the Empire now consists of twenty-six States, twenty-two being monarchical, three being republican city-States, and one a semi-independent Viceroyalty. That is the simplest formula for expressing the nature of the federation which is called the German Empire. It may be as well to enumerate these States. They are: Prussia, Bavaria, Saxony, Württemberg (kingdoms), Baden, Hesse, Mecklenburg-Schwerin, Mecklenburg-Strelitz, Oldenburg, Brunswick, Saxe-Meiningen, Saxe-Coburg-Gotha, Saxe-Altenburg, Anhalt, Schwarzburg-Rudolstadt, Schwarzburg-Sonderhausen, Waldeck, Reuss (elder and younger lines), Schaumburg-Lippe, Lippe (the last seven principalities, the others duchies or grand-duchies), Lübeck, Bremen and Hamburg (republican city-states), and the viceroyalty of Alsace-Lorraine. In a further chapter we shall see how these States differ in their forms of government and in their relations to the Imperial Federation and the Federal Government. For the present it is desirable to note that certain of the old political divisions have disappeared. Prussia, for instance, has swallowed amongst other once independent units the old Kingdom of Han-

nover, which is now the Prussian Province of Hanover ; a portion of the former Kingdom of Saxony, the swallowed portion being now the Prussian Province of Saxony ; Frankfurt, which is now a Prussian city instead of being an independent city-state like Hamburg and Bremen ; and so forth. Inasmuch as Prussia also includes now Westphalia, the Rhineland as far as Frankfurt, and the Eiffel uplands west of the Rhine, it is by far the largest partner in the federation, and stretches "across the map" from the Belgian to the Russian frontiers. Oldenburg, the Mecklenburgs, and the republican city-states break its coast-line, and the small Duchies intervene in part between Prussia and the old dividing-line of north and south, whilst it is also broken up by occasional excrescences like the Principalities of Lippe and the Schwarzburgs. It should be added that the tendency is for these little Principalities, whilst retaining their individual ducal or princely families, to combine for purposes of internal revenue and administration, and also, as recently in the case of the Schwarzburgs, for representation in the Federal Council. But there is no tendency to relinquish any kind of privilege to Prussia.

It may be added that the map of the small central German or Thuringian States shows curiosities comparable only to the map of

Scotland. The Duchy of Saxe-Coburg-Gotha, for example, is not even territorially united: the Gotha part of it is separated by a fragment of Saxe-Weimar territory, and a big strip of Saxe-Meiningen from its Coburg section. There are eleven different sections of Saxe-Weimar-Eisenach scattered all over the map of the Thuringian States, and even the two parts of the little Principality of Reuss Elder Line are some fifteen miles apart. Sondershausen, the northern part of Schwarzburg-Sondershausen, is at its extreme southern limit twenty-five miles as the crow flies from the extreme northern limit of its middle part at Arnstadt, which is again separated by a bit of Gotha and a trifle of Rudolstadt territory from its southern part at Gehren. A glance at a good coloured map of the Thuringian States, Dr. Lange's, for example, is itself sufficient to show the difficulties involved in the self-government of such complicated territories, so long as there was no adequate central authority and no common protection. Even County Councils might find it difficult to carry on their work with one bit of the county at Brighton, another tiny section in the middle of Surrey, and a third round Salisbury. Development, one might suppose, was only possible when some central authority had provided norms or general lines of procedure for the principal

functions of self-government, and had further removed difficulties of inter-State communication by road and rail. That is what was achieved partly by Prussia and later by the Empire.

CHAPTER II

KAISER, BUNDESRATH, REICHSTAG, AND STATE-PARLIAMENTS

ALTHOUGH historically it is no doubt true that the foundation of the new German Empire was an act of all the people, or nearly all the people, included within the Empire, from the point of view of constitutional law the foundation might be described rather as the act of the several States into which these people were divided. The individual States existed previous to the foundation, and their existence was not ended by it. This distinction is clearly shown in the Constitution. There is the federal body called the Bundesrath, representing the States severally, and the Parliament of the Empire or Reichstag, representing all the people collectively.

The Bundesrath is not a debating body, nor is it a second chamber : its members are delegates appointed by the various States, and they vote not according to their individual judgment or according to party orders, but

according to instructions received from the governments of the States they represent, and they do not vote on any single proposal without definite instructions on that particular proposal. In the Bundesrath Prussia has seventeen votes, corresponding to the four votes she possessed in the council of the North-German Federation plus the votes belonging originally to Hanover, Kur-Hesse, Holstein, Nassau and Frankfurt, which were incorporated into Prussia. Bavaria has six votes, the kingdoms of Saxony and Württemberg four each, Baden and Hesse three each, Mecklenburg-Schwerin and Brunswick two each, and the rest of the States one each. It is clear that since the plural votes are not distinct but merely represent the proportionate weight to be attached to the opinion of the particular State represented, the representatives of each State must vote "solid."

The Reichstag or Parliament of the Empire, is, on the other hand, the representative and debating body of all the German people, without distinction of district or State. It is the body representing the Empire, no longer in its federal aspect but in its unified aspect as one Empire and one people. Hence every German possessing the franchise, that is every male German who has passed his twenty-fifth birthday, and is not dis-

qualified under the provisions of the penal code or under the laws governing bankruptcy, or by the receipt within the twelve months preceding the election of assistance under the poor-laws, is entitled to vote not merely in the State to which he belongs, but in whatever State he has his residence at the time of the election. Similarly every male German who has passed his twenty-fifth year is eligible to membership of the Reichstag, provided he has the qualifications for the franchise. He need not be elected from the State to which he belongs, but he must have been a citizen of the Empire for at least a year, and must be a resident of the State from which he is elected. Military persons may not vote so long as they are actually with the colours: the right to vote is considered in their case to be temporarily in abeyance, but it is clear that, unlike prisoners or persons judicially sentenced to temporary loss of the franchise, their qualifications for the franchise still exist, and therefore they are eligible as members of the Reichstag. The reason why military persons and men on active naval service may not exercise their vote is evident: it is considered impossible to reconcile freedom of choice in balloting with the restraint on individual freedom required by military organisation.

Originally the Reichstag was intended to contain one member for every 100,000 of the population, each State sending as many members as it contained multiples of 100,000, and one extra for any remaining fraction of 100,000 exceeding 50,000. Lauenburg, with less than 100,000 inhabitants, nevertheless had one representative. In practice this theory of representation has long since vanished. The present Reichstag should have about 600 members instead of 397 on the numerical basis, and the representation of the towns should have been nearly doubled. For instance, Berlin, with over 2,000,000 inhabitants, still has only six members, whilst the agricultural districts are in part over-represented even on the original numerical basis. The Government is, however, loth to introduce a redistribution bill, because any equitable distribution must diminish the proportionate strength of those parties or sections upon which the Government can usually reckon for the passing of "national" bills.

The Reichstag possesses no control over the administration or the executive except in so far as it can refuse to grant supplies. Bills brought before it have to be passed first by the Federal council, and after alteration by the Reichstag are again subject to the veto of the Council. Hence its actual legislative

power is hardly as great even as that of the House of Lords before the passage of the Parliament Act. Its composition does not necessarily determine the character of the policy of the Government; an adverse vote does not turn the Government out, though it may involve a dissolution. A second adverse vote after a dissolution would, however, doubtless result in the resignation of the Chancellor concerned, though the Chancellor might decide again to proceed to dissolution. Since, therefore, the Reichstag is neither itself a governing body nor has any real power to call the Government to account, and since the imperial officials are neither legally nor practically responsible to it, it has never developed a true party-character. Membership of the Reichstag is scarcely a social asset, and it does not appeal to talent. It is even claimed that the introduction of the system of payment of members some years ago has rather decreased its reputation than otherwise. Moreover, since the source of all concessions is a permanent Government, that Government invariably seeks a temporary majority by granting concessions to different sects.

In the main the Government must thus be permanently agrarian, as it is in Prussia, or at least Conservative, because its own existence and character is essentially non-Liberal and anti-democratic, and it cannot proceed far in

the granting of concessions to liberalism. Hence German Liberalism (regarded as including Radicalism) is either driven to an extreme, when it becomes as negative as Socialism, or it tends to toady to the Government in the hope of small concessions. Its reputation is thus at a very low ebb. Of the chief parties in the House the Socialist is now the strongest, not because it represents an overwhelming acceptance by four million voters of Socialist principles, but because it is the only party which adequately represents democratic opposition. It is the representative of the opposition to permanent bureaucratic institutions. The Freisinnige or Radical groups stand about half-way between the Socialists and the so-called National Liberals, who in turn represent for the most part industrial and commercial capital and interests, as against the privileged Conservative class on the one hand, and Labour on the other. The word "Liberal" in their title is virtually a misnomer. The Centre party, the second strongest in the House, is the representative of the Catholic population. Next to the Socialist it is the best organised, but politically it is not a constant factor. It cannot be described as Liberal, because its strength is based largely on a reactionary view of life, but it is also not necessarily Conservative, because its vote on a reactionary proposal

may be determined by consideration for the demands of a section of its supporters which is opposed to agrarian and Conservative privileges. Since, however, as has been said, the Government is the source of privileges and concessions, the Centre can usually be persuaded to support Government bills in return for concessions to its *confessional* interests. The General Election of 1913 left the strength of the parties as follows: Socialists, 110; Centre, 99; Conservatives, 56; National Liberals, 46; Radicals, 43; Poles, 18; Reichspartei (usually voting with Conservatives), 15; Independents, etc., 10.

Having thus sketched the character of the Bundesrath and the Reichstag, representing the Empire in its two aspects, it remains to see what are the limits of the authority and powers of the two bodies. When the northern States formed the original bund they surrendered individually some portion of their absolute independence or rights of sovereignty in order to exercise them collectively. They did not surrender all, but they did permit Prussia to exercise a dominant though not an absolutely major influence in the exercise of the part surrendered. The same principle prevailed when the empire was developed out of the bund: that portion of the sovereign rights of the northern States formally exercised by the northern bund was

transferred to the enlarged bund and the southern States performed the same act of surrender which had been originally performed by the northern States. In return they received a portion of the collected sovereignty of the whole. Primarily, as was seen in the first chapter, matters of war and commerce as far as foreign countries are concerned, were the fields for the exercise of this new collective sovereignty, but the scope was extended inasmuch as the new bund was no international agreement, but a national union. It may be best to summarise the matters which actually come under the imperial control:—

(1) Questions of citizenship of the Empire: treatment, surveillance and expulsion of foreigners; colonization and emigration; increase and, of course, also decrease of territory within the Empire.

(2) Legislation regarding customs duties, taxes to be applied for imperial purposes, regulations of coinage and weights and measures, banking regulations, especially the issue of paper money, stock exchange transactions, etc.

(3) Patents, inventions, the protection of the products of intellectual activity.

(4) Protection of German trade abroad and on the high seas, hence also the consular service.

(5) Means of communication: railways,

roads, waterways, posts and telegraphs (with certain exceptions in the case of postage and railways, and in the case of roads and waterways where the interests of common defence are not concerned, or where such roads and waterways are not means of communication between States, but only within one State).

(6) Legislation unifying civil and criminal law and legal procedure, and enforcing the mutual execution of judgments.

(7) Authentication of public documents, regulations for the press within certain limits, and of the right of assembly, regulation of certain departments of health, and veterinary matters.

(8) Army and navy.

It will be noticed that one of the chief features of modern life, education, does not fall within the competence of the Empire, but is left to the individual States. In the chapter on education it will be seen, however, that uniformity is nevertheless to a large extent achieved within the Empire. But the relations of Church and State are not touched by imperial legislation. Also each State is left to make its own Budget for its own purposes, and it is also left to collect in its own way that portion of the imperial revenues which has to be subscribed by each State in addition to the imperial revenue

derived from imperial taxation and customs. Domestic agricultural questions, so far as they are not included within the imperial veterinary or protective regulations, are also left to the individual States: mining and forestry, fishing and shooting, police regulations concerning building and prevention of fire, and also the regulations whereby the general police agreements are actually executed. Moreover, even in the criminal and civil law, though the Empire decides the principles the State executes them. Judgments are rendered and executed not in the name of the Empire, but in the name of the State. Even customs duties, imperial taxes, and so forth are collected not by officials of the Empire, but by officials of the State or States concerned, acting on behalf of the Empire.

It is important to remember that these features of State as opposed to Federal control are not prerogatives ceded by the Empire to the individual States in the way of decentralisation, but are part of the old, completely independent sovereignty retained by the States. The tendency of modern Germany is emphatically not towards decentralisation, but the reverse; and the centralising tendency would be more evident and swifter in development if it were not for the fear that the whole country might be conformed to the peculiar, and in

some respects, too harsh characteristics of one State—Prussia. This is a matter to which it will be necessary to recur. In plain language Germany is not an Empire which has conceded “Home Rule all round” to its individual parts.

It has already been stated that certain States retain certain special privileges, and this may be a convenient point to sketch them. Bavaria retains the right to print her own postage stamps, and to mint her own coinage, though the reverse of Bavarian coins, showing the imperial eagle, makes them current, of course, everywhere in the Empire. On the other hand, only Bavarian stamps may be used in Bavaria, and they may not be used throughout the rest of the Empire. Württemberg surrendered a similar privilege quite recently. Baden and Bavaria reserve the right to tax domestic beers and brandies, and the latter reserves certain rights affecting domicile, and the railroads within her frontiers; certain insurance laws may only be passed with the consent of Bavaria, and there are Bavarian military privileges which may be noted in the chapter dealing with the army.

On the other hand Prussia also has certain privileges, which have now to be considered in connection with the position and attributes of the Kaiser.

In the old North-German bund there was a

function called the Presidency (Bundes-Praesidium) and another called the Bundes-Feldherr or Military Over-Lord, commonly translated "War-Lord." The president of the bund or chief magistrate of the federation could summon and open, adjourn or dissolve, the federal Parliament, and could appoint and dismiss the federal Chancellor and federal officials, could declare war and make peace. The War-Lord had supreme command of the federal forces by land and sea in times of peace and of war, he determined the strength of the army and navy, ordered new fortifications, could declare a state of siege in any part of the federal dominions, and if necessary could mobilize the federal army against a recalcitrant member. Both the presidency of the bund and the warlordship were occupied by the Kingdom of Prussia. When the bund was extended to include the southern States, the bundes-praesidium and the warlordship were retained, but they were merged in one term which included them both—"Deutscher Kaiser," the *German Emperor*, and the title "German Emperor" was made the prerogative of the King of Prussia. Thus the Kaisership is the old Presidency of the bund plus the warlordship.

The adoption of the title "Kaiser" did not create a new federal institution, nor did it revive the old institution of the Holy

Roman Empire, though the tendency of the present holder of the title has, doubtless, been to regard himself as the successor of the old Emperors, holding his title and prerogatives "Dei gratia" rather than by decision of the individual States; still less did the possession of the title by the King of Prussia imply that he was in any sense the superior of the monarchs of the other Kingdoms and Duchies. The special title chosen was, indeed, as Bismarck says (*Reflections*, chapter 23), intended to "constitute an element making for unity and centralization," but it was also actually intended to assist the wearer of that title in repressing an inclination, "dangerous, but a vital feature of the old German history, to inculcate upon the other dynasties the superiority of the Prussian dynasty." The first Emperor was in Bismarck's opinion much too prone to emphasize what he calls the superior respectability of the hereditary Prussian crown. The matter can be put most simply in this way. The Kaiser is not even in theory possessor of the Empire as any one of the German Kings or Dukes is in feudal theory possessor of the country over which he holds sway. The German colonies are not the "dominions of the Kaiser overseas": he can neither add to them nor surrender them even in theory without leave of the Federal Council and of the Reichstag. The King of

England can talk of "my dominions overseas," the Kaiser cannot. Moreover, the Kaiser as such receives no income from the treasury of the Empire. There is no imperial civil list, and the revenues of the Kaiser are either the possessions of the royal house or those bestowed upon him by Prussia alone in his capacity of King of Prussia. The only form of subsidy is the "Disposition Fund," a comparatively small sum voted annually with the imperial budget. Moreover, the Kaiser as such can neither initiate legislation nor veto it. He formally endorses bills and may send them back if they are in *form* defective, but he cannot veto them because he considers them bad legislation.

But almost all these legislative functions lacking to him as Kaiser, he does actually possess as King of Prussia, because he controls the seventeen Prussian votes in the Bundesrath, and any State represented in the Bundesrath can initiate legislation. Moreover, the Kaiser appoints and dismisses the Imperial Chancellor, who is president of the Bundesrath, and in effect the only responsible minister. Hence the actual director of policy in the Empire is only under the control of the Kaiser, and is only responsible to him. Again, the Kaiser is supposed to supervise the proper carrying out of imperial legislation, but he has no civil force at his command to

punish or re-adjust omissions ; he can only refer the matter to the Bundesrath, leaving that body to take action if it pleases. Judicially the Kaiser has the right of pardon only in matters adjudged by the imperial court, whose judges he appoints ; that is to say, he has the right of pardon only in cases of treason against the Empire or against his own person : in the States outside Prussia the Kings or Dukes have the sovereign's right of pardon except in cases of high treason. As Warlord the Kaiser has much more nearly monarchical powers. His power to declare war of his own accord is, however, limited to cases in which German soil is invaded, though as he is the sole determiner of what constitutes invasion the limitation does not perhaps go for much. But whilst the Kaiser is thus strictly limited in his functions and privileges in all German States other than Prussia, he takes a different character directly the relations of Germany to foreign powers are concerned. Here the Kaiser, according to the wording of the constitution, " represents the Empire, is to make treaties and other agreements with foreign powers in the name of the Empire, and to accredit and receive ambassadors." (It will be noticed that he does so in the name of the Empire, not in his own name. The Sovereignty still rests with the Bundesrath, not with the Kaiser.)

It has been necessary to attempt to define the limitations of the Kaiser's power in this way because, otherwise, it would not be possible to explain the repeated demands on the part of Reichstag that the Kaiser shall restrain himself in one direction or another.

It is fairly obvious that questions of competence must frequently arise in the relations between the Imperial Parliament and the Parliaments of the various States. Roughly speaking, it is true that where the Imperial Parliament has not legislated the individual States are competent: hence arise the constant efforts of Liberals in the Imperial Reichstag to extend the limits of imperial legislation so as to remove competence from individual States governed, as is Prussia, under less liberal constitutions. The regulation of hours of labour, regulations affecting the health of home-workers, the expropriation of Polish proprietors in Prussian Poland, and many other domestic questions can and do periodically give rise to the question of competence, but Prussia jealously guards herself against any interference which she can avoid. Recently there arose in the Reichstag the question whether the Empire could require all the individual States to introduce the imperial franchise, that is the direct manhood vote by secret ballot with one value to all votes. The Conservatives

declared, without question correctly, that the Empire could not interfere in this sense: the National-Liberals stated that the Empire could demand that every State within the Empire could be required to possess an electoral representation whose consent should be required for all State legislation, and for the passing of the budget, but the Empire could not lay down the exact character which such electoral representation should take.

The Centre have several times declared that harmony of constitutional institutions is a necessity of the public life of the Empire, but that it can only be produced or initiated by the Empire if the States constituting the Empire elect to enlarge the imperial privilege so as to include the necessary interference with the rights remaining to the individual States. This is an excellent illustration of the debates which may and do arise on the question of imperial and State competence; and this may be a convenient point at which to glance at the constitutional conditions actually prevailing in the individual States.

In Prussia, the largest State, conditions are still but little removed from feudalism. The so-called popular house of the Prussian Parliament is elected on the "three-class system." The total of the State tax paid in each electoral constituency is divided into three portions, and the voters, all males

who have reached the age of twenty-five, are also divided into three classes. The first class consists of the heaviest taxpayers, whose payments total one-third of the whole sum for the constituency ; the second class consists of the next heaviest payers, again totalling a third ; and the third class consists of the poor or lowest taxpayers. Each of these three divisions elects a certain number of intermediate electors. These intermediate electors, or " Wahlmänner," must number one for every 250 inhabitants, and they in turn elect the members of the lower house. The absurdity of designating a house so elected a " representative house " is sufficiently clear, and Bismarck himself described the Prussian system as the " wretchedest of all systems." The first class may consist of a hundred primary electors, but they have just as much influence over the final choice of representative as the third class, which usually numbers at least twenty to twenty-five times as many. In view of the fact that the first and second class usually vote the same " ticket," it is evident that the third class is in an absolute minority of one to two. There are electoral districts in Berlin where one man in his constituency constitutes the first class, and elects two members of the electoral college : in the second class there may be forty voters, also electing two Wahlmänner, and in the

third class several hundred. In recent newspaper discussions it was asserted that in two adjoining districts of Eastern Berlin, in one district one taxpayer, with an annual income-tax of over £2,000, constituted the first class by himself; whilst in the adjoining (very poor) district ten men, paying roughly £5 apiece, also constituted a first class. But if the rich taxpayer had lived one mile westwards, in the wealthy Thiergarten quarter, he would have been compelled to vote in the third division—like the Imperial Chancellor, Herr von Bethmann Hollweg!

The actual figures in recent elections show that the first class of voters, electing one third of the Wahlmänner, consists of about 200,000 voters; the second class of about 900,000, and the third class of over 6,000,000!

It is against this wholly illiberal system that the Prussian Socialists are constantly protesting, and the growing opposition to it has become strong enough to compel the Government to introduce a promise of reform into the speech from the throne. The new electoral scheme recently brought before the Houses as a result of this promise failed to pass, and the Government has not since then introduced any other Bill. If the Lower House of the Prussian Diet is thus completely controlled by the rich classes the Upper House, or House of Peers, is in reality no

less reactionary. The members are either hereditary legislators, or they are appointed by the King of Prussia as life members, or they are ex-officio members through tenure of high Government appointments. The agricultural districts of Prussia have about two-thirds of the total representation in the House of Peers and more than half the representation in the Lower House, although on the basis of population the proportion should be almost exactly the opposite. It follows that the Prussian Parliament is necessarily devoted to the agrarian interests, and tends sadly to neglect the just claims of the 23,000,000 Prussians who constitute the industrial population. Mecklenburg is almost the only country which is even worse off than Prussia, for it retains the strictly feudal arrangements of 1523 as modified in 1755. At the time of writing the adoption of a representative Parliament is still under bitter discussion. Saxony modified its feudal system in 1909 by adopting direct manhood suffrage, and the secret ballot, but incomes of over £80 per annum entitle the possessor to two votes, £110 to three votes, and certain standards of education, certain professions, and incomes of more than £140 give four votes. The election of members takes place directly. To take an illustration of a liberal constitution it may be added that Baden, the "model

duchy," as it is sometimes called, has direct manhood suffrage by secret ballot and "one man, one vote."

It is natural that the landlords, the feudal aristocracy, and the wealthy classes should cling to their advantageous position by every means in their power, and wherever possible, but it can scarcely be doubted that far-reaching changes must come in the near future. At present the suggestion seems to be that a compromise should be found between the Reichstag electoral system and the Saxon system, whereby the Reichstag system would be modified slightly in favour of "brains, caste, and money," whilst in Prussia and elsewhere the direct secret ballot would be introduced, but the two upper classes of the present system would receive two or more votes.

The basis of the reactionary system in Germany does not, however, consist of any theory that birth, money, or even education warrant the possession of a more powerful voice in the election of legislators; there appears to be no subtle suggestion that a stake in the country, the possession of brains or fortune or position make an elector better able to judge what he wants or what is good for himself and his country; it is simply that the current of ideas both in the Empire and in most of the States is from the top down-

wards, not from the bottom upwards. Legislation derives primarily from the permanent Government, not from the representatives of the people, hence a strengthening of popular representation is almost meaningless in a country where public officials are not in any true sense the servants of the public.

CHAPTER III

THE EXECUTIVE ; CHANCELLOR, AND BUREAUCRACY ; POLICE ; LAW COURTS

IN the previous chapter it was pointed out that although the Reichstag may and does alter laws presented by the Government for its approval, the whole method of its working prevents it from being a law-giving assembly. The controlling factor remains the Bundesrath, which votes upon a law before it goes to the Reichstag, and may refuse its assent when the Reichstag has modified it. Thus the function of the Reichstag to a great extent is that of a body which does indeed possess a veto, but does not possess an actual initiative. If a Bill presented by the Government does not meet with the approval of the Reichstag, the Government can simply disregard the matter altogether, and proceed with the next item in its programme. Neither the Chancellor nor the Bundesrath can be made accountable, nor can the Reichstag compel the Government to introduce bills suggested by the representative house. The essential

point is that the flow of legislative ideas comes from permanent authorities to the people, and if at times a popular demand for some particular modification of existing laws or for the creation of new makes itself felt, this occurs despite the legislative machinery, and not through it.

The same feature prevails in the executive. The Bundesrath, which has first to be consulted as to the desirability of any law, also includes the machinery for its execution. The Empire itself does not, on the whole, provide the machinery, but leaves the executive to the individual States, and although the Kaiser is legally supposed to supervise such execution, yet he has virtually no machinery at his command for carrying out such supervision. He can refer cases of obstinate refusal to execute a law to the Bundesrath, and in the last instance can mobilize the Federal army against a recalcitrant State, but he does not actually control the departments and sub-departments responsible for the work. On the other hand, neither the Reichstag nor any popular representative body in any State can control the appointment of executive officers.

It is so much the custom to talk of Germany as a bureaucratic country, and therefore of the German bureaucracy, that the impression sometimes seems to prevail that the whole

Empire is administered by a hierarchy of functionaries, all appointed by the Kaiser, and having the Chancellor at the head. As has been already explained, there is no such imperial bureaucracy, because the internal affairs of each State are left to its own management, though in many departments the norm or general rules of procedure are regulated by laws of the Empire. There is only one imperial minister, the Chancellor, who is responsible only to the Kaiser. All the other imperial departments, Foreign Affairs, Colonies, Post Office, Finance, etc., are technically departments of the Chancellery, for the Imperial Chancellor has subordinates but no colleagues. The navy is, of course, exclusively imperial in its nature, that is to say, there are no State contingents as in the army, and obviously there could not be. Therefore there is an imperial Admiralty, and this too is technically a department of the Chancellery. But there is no imperial War Office. Each of the States possessing a military contingent, namely, Prussia, Bavaria, Saxony and Württemberg, has a war-ministry responsible for the administration of its own contingent according to the norm laid down in the articles of federation.

At the same time it is clear that the vast charge thus laid upon the Chancellor involves also an army of subordinates in their various

degrees, and it is, of course, true that certain departments of the Chancellery tend more and more to achieve a certain independence, just because no one man can be omniscient enough or has time enough to exercise a real supervision and directorate of all the imperial departments. Under the present Chancellor, Herr von Bethmann Hollweg, the Foreign Office has acquired a remarkable degree of independence, though its ability to exercise it is, of course, limited by the fact that finally the policy to be carried out is on its broad lines the policy of the Emperor. But this imperial bureaucracy does not extend to the domestic and local administration in the various States : nor indeed are the methods of local administration the same in all States, inasmuch as the Empire has only laid down norms for some spheres of human activity, such as litigation. There is, however, a uniform civil right for all Germans contained in the remarkable Bürgerliche Gesetzbuch, and against breaches of this, that is, against any circumscription of individual liberty, such as is forbidden by the Bürgerliche Gesetzbuch, there is ultimately an appeal beyond the State to the Empire through the High Court at Leipzig. But the appeal to the Empire is not always effective, because, as already stated, there is often a conflict of opinion as to where the rights confirmed to all citizens of the Empire by

the imperial laws are infringed by action of the States.

An illustration from practice will make this clear. Article 3 of the Imperial Code provides for rights of domicile, the acquisition of land, and the enjoyment of civil rights. "No German shall be limited in the exercise of these rights by the authority of his native State or by the authority of any other State of the bund." The Reichstag recently protested under appeal to this clause against the action of the Prussian Government in exmitting Polish proprietors under the Prussian colonization scheme. The imperial authorities refused to interfere on the ground that the imperial Government was not competent. Similarly the federal law provides that no German properly elected to a representative body in any State or to the representation of the Empire shall be prevented from the exercise of the rights attached to his election. Recently some Socialist members of the Lower House of the Prussian Diet or parliament were removed by the police, and an appeal was made against this removal as contrary to federal law. The imperial authorities again refused to interfere, and an action brought against the Prussian police failed.

We turn from the imperial bureaucracy to the domestic bureaucracy of Prussia, which, it would appear, is what is usually meant

when people refer loosely to the "German bureaucracy." In the year 1808 Baron von Stein, the great Prussian administrator, virtually abolished the old feudal system in Prussia, and introduced a system of representation of communes, districts, and provinces which might perhaps be easiest paralleled as parishes, constituencies, and counties. At the same time, in order to centralise control, he devised a system whereby the ultimate control of each of these representative and administrative bodies was placed in the hands of a Government authority. By degrees these Government authorities have lost their local attachment, and have become professional members of a home civil service, responsible only to their immediate chief, and through him to the King of Prussia. Local government by locally elected or at any rate localised bodies and authorities is thus restricted by the superior authority of men imposed by the State.

For administrative purposes Prussia is divided into twelve provinces, plus two major administrative districts, namely, Berlin and the Principality of Hohenzollern. Each province is governed by a Provincial President responsible only to the King and appointed by him. The province is subdivided into a number of districts (*Regierungsbezirke*), with a district president, who is subordinate to the

Provincial President. The districts are again divided into circles, and over each circle (Kreis) there is a Landrat. Now the Landrat personifies in Prussia the bureaucratic officialdom, for he comes most closely into contact with the local bodies, and his influence is most felt and least admired. The province, the district, and the circle have each their representative council, and below the circle comes the commonalty, parish or urban district (Gemeinde), which is as a matter of fact the essential organ of self-government. The Geminderat is either one person, a Burgomaster or a Dorfschulze, whose appointment is usually for three or more years, and requires Government confirmation, or there exists in larger parishes and commonalties a collegiate body deciding by majority vote.

The population is represented by an electoral body, which is generally so elected that property qualifications obtain a disproportionate, if not actually a decisive voice. Local taxation and local government are nominally in the hands of these local Parliaments, with their representative assembly, and second chamber or single superior (Gemeindevorsteher). But the Landrat, besides presiding over the meetings of the representative body, has a direct control of the affairs of the commonalty. Its accounts are inspected by him, and many of its decisions are

subject to his veto. The attitude of the Landrat to the commonalty officers was recently epitomized in its crassest form by a statement published in the Berlin press. According to this statement there appears on the door of the residence of a certain Landrat in East Prussia the notice "Burgomasters are to use the backstairs!"

It would carry us too far to investigate here the functions and privileges of the Landräthe. Their method of appointment will be sketched in the following chapter, under the heading of the professions, but it should perhaps be made clear here that the Landräthe are no longer, at any rate in Prussia, feudal appointees. Formerly not only the Landrat but also the Dorfschulze, that is mayor of a country district, was always the lord of a certain manor, but these hereditary local offices were abolished in Prussia in 1872.

In no department of imperial or State machinery are the officials "servants of the public." As a rule foreigners visiting Germany find the first and most striking illustration of this fact outwardly in the German post-offices, where the public is in almost every case cut off from the officials by a wooden screen with little windows behind which the officials sit to transact the business of the Empire or the State. Almost all railways in Germany are State railways or imperial

railways, and the railway authorities are State or imperial authorities. Even on private lines, such as the electric overhead line in Berlin, the company's officials are given an official status by being sworn in as "railway-police" and armed with the authority of traffic police. It is calculated that there are now approximately 3,000,000 officials in Germany, or five per cent. of the population. In general it cannot be said that Germans feel the same objection to this bureaucratic or paternal system of government that would be felt in England. Responsibility is removed from the shoulders of the ordinary citizen, and although he is hedged about with a palisade of exasperating regulations he is accustomed thereto from the outset, and does not worry about the matter.

It is not to be supposed, however, that this official machinery is uniform throughout Germany, or that the life of the unofficial citizen is restricted as sharply in one district as another. The sharp police control, which is such a feature of Prussia, is a great deal more lax in Baden, and so far as foreigners are concerned is almost unnoticeable in the Rhineland, and in parts of Southern Germany. It may be convenient to summarize in this connection the features of the chief executive organisation, the police. A householder

moving from one suburb of Berlin to another is compelled to fill up two forms, one showing the names, ages, birthdays, birthplace, confession, and business or profession of himself and all members of his family residing with him; the other giving the names and other details concerning his servants or members of his household who are not relations. These papers must be signed by the landlord or porter of his flat and deposited with the local police. Similar papers must be filled up and deposited with the police within three days of his arrival in his new home. He will be required, if a foreigner, to state how long his residence will be, and if it is to be for more than three months he will presently be instructed to appear at a police-station and produce his passport. The object of this close police surveillance is partly to render the tracing of crime easier but mainly it is to control army service. The law governing army-service declares that every male German not rejected on the score of physical unfitness is liable to service in the army: the system of police supervision exists partly for the purpose of tracing every male so liable, but also, and this is even more important, for the purpose of tracing the whereabouts of every trained reservist at any moment in order that orders to join the colours may be conveyed to him immediately upon the outbreak of war

or upon the receipt by the local authorities of the orders for mobilisation.

In practice it is extremely doubtful whether the supervision system is a preventative of crime, and it has been shown in numerous recent murder trials in Germany that the system is of little use in tracing an adroit criminal. On the contrary the theft of another man's police papers and evidence of identity has been shown to be very easy, and the result to be very confusing. This is no doubt partly due to the fact that the country police are very loth, even in Prussia, to worry a good workman or agricultural labourer in a district where labour is badly wanted just because he happens to have mislaid his papers. It is claimed that it is quite as easy for a clever criminal to escape the police in Berlin as in London, and newspaper evidence of recent years points to much-policed Berlin being in point of fact a happy hunting-ground for clever swindlers of all sorts. Special police control almost every department of human activity, at any rate in Prussia, and their powers are much more extensive than in England. "The uniform," it has been said, "is a key to all doors." No magistrate's warrant is required for the intrusion of the uniformed policeman in a private house, and the building police in particular are armed with extensive powers

of investigation. Recently in Berlin it was thought that a number of families were exceeding the police provision forbidding the use of attics for sleeping purposes. Building police entered some of the blocks of flats, ascended to the attics, and removed the heating apparatus installed by the landlords !

The ordinary police, however, exercise a sometimes useful rôle in the settlement of disputes. They can be called upon by masters to interfere against insolent servants and by servants to recover wages. In these cases they act as mediators, and frequently arrange a compromise without the necessity of the disputants carrying the matter before a court of law. Although they are almost always recruited from the army, and thus accustomed to exercise an abrupt authority inconsistent in other countries with the freedom of civil life, they are not, on the whole, either a violent or a discourteous body of men.

It should be added here, perhaps, in defence of the German bureaucratic system, that discourtesy and insolence towards the public is the exception not the rule, but the exceptions are apt to be more exasperating than in other countries because the victim is completely powerless. To obtain redress against a policeman who grossly exceeds his instructions is difficult and often impossible,

whereas a mild remonstrance may appear in the eyes of the official as an insult. The tendency of the police is certainly to become more autocratic. It may be enough to quote such instructions as those recently issued by the police-president of Berlin to policemen interfering in a street disturbance. Owing to cases in which policemen had been injured by pistol-shots, the police-president threatened that he would punish any policeman who failed to "shoot first."

As in all other departments of German life, the police-system, owing to its elaboration and close confinement to written instructions, has become inelastic; there is very little room for individual intelligence on the part of the executive, and there is practically no adaptation to individual circumstances. Over all German life stands the text "Nach Vorschrift." Everything must be carried out exactly according to instructions. That is why, for example, Berlin street traffic strikes a Londoner as being so badly managed and so clumsily organized. The traffic police are restricted to certain methods of control, and the opening or closing of a traffic route is too often dictated not by the pressure of traffic, but by the hands of a stop-watch.

It may be useful to note shortly the main divisions of the Prussia police-system, its