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The Tyrants' War and the Peoples' Peace

Max Rheinstein

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Editor

E. W. PUTTKAMMER

CONTRIBUTORS TO THIS ISSUE

GEORGE G. BOGERT, of the New York and Illinois Bar; formerly Dean of the College of Law, Cornell University, and now Professor of Law, University of Chicago; author of Bogert on *Trusts*.

SIDNEY B. JACOBY, LL.B. Columbia University; Attorney, United States Railroad Retirement Board; author of various other articles in legal periodicals and in *Selected Essays on Constitutional Law*.

ROBERT H. SHIELDS, B.L. Harvard; member of the New York Bar; Solicitor of the War Food Administration and of the Department of Agriculture.

SYLVESTER PETRO, member of the Illinois Bar; formerly of the Board of Student Editors of this Review; now Assistant Editor of Alumni Publications of the University of Chicago.

BOOK REVIEWS

Tyrants' War and the Peoples' Peace, The. By Ferdinand A. Hermens. Chicago: University of Chicago Press, 1944. Pp. xiv, 250. \$2.75.

Prelude to Silence: The End of the German Republic. By Arnold Brecht. New York: Oxford University Press, 1944. Pp. xxi, 150. \$2.50.

These are two timely books. That by Hermens is a plea for reason to guide the settlement of the peace. The hatred and passions which had accumulated during World War I decisively influenced the peace that followed it. This fact, Mr. Hermens finds, was one of the chief reasons why that peace failed. Now he sees the danger that such feelings may again destroy the hopes of man. Public opinion in this country and in Britain has undergone a dangerous change. No longer is the War regarded as a fight against Hitlerism, fascism, and the Japanese war lords, but as a war against the peoples of the Axis countries, who were the very first victims of the tyrants. The events of the War and the passions engendered by them have given rise to distorted ideas about the peoples of the enemy countries, ideas which, if they would again determine the peace, would again cause it to fail. A peace based upon such notions would require for its enforcement the application of armed force for an indefinite period of time. The author believes that the peoples of the democratic countries would not only soon tire

of the exertion but also that their conscience would make them feel so uneasy that they would be unable to carry out consistent enforcement. Hence, the problems of peace should be attacked in the spirit in which we are likely to judge them "five years from now." What Mr. Hermens pleads for is that a new chance be given to the democratic forces of the Axis countries, especially of Germany, to establish in their countries democratic regimes with whom the United Nations could cooperate in a democratic world order of collective security.

With great knowledge, insight, and accuracy Mr. Hermens undertakes to prove the existence of important democratic forces in Germany; that after the defeat of National-Socialism these forces will have a good chance of success; that the German people are warlike and aggressive neither by racial quality nor by inevitable historical destiny; that after World War I the overwhelming majority of the German people was ready and willing to co-operate with a democratic world in a democratic spirit; that this chance was spoiled by serious defects of the Weimar Constitution, especially proportional representation,² by world depression, and by the victor nations which, instead of supporting the inexperienced German Republic, made its way difficult either through indifference or through hate or fear-inspired obstruction. National-Socialism is shown not to express any peculiar spirit of the German people but to constitute a typical instance of the age-old pattern of tyranny as it has arisen under certain circumstances in other parts of the world, as it has been described by authors as old as Plato, Aristotle, or Thomas Aquinas, and as it would develop, given the proper circumstances, in any other country. Even the seeming co-operation between the German people and the National-Socialist regime with its horrors is explained as a result of the circumstances rather than as an expression of typical German qualities. The book closes with well-considered and practicable constructive suggestions for a democratic peace.

The author of this remarkable book knows whereof he speaks. He was an active German fighter against National-Socialism, a member of that group of young liberal Catholics who furnished vigorous support for Chancellor Bruening's heroic efforts to save the German Republic and world peace. For those victims of Vansittartism—so Doctor Hermens calls, after its most prominent representative, the attitude of passion-born self-deception about the enemy—to whom such a record is the very signal of suspecting a Hitler agent in disguise, this book is not written. But for men who are still able to listen to the voice of reason, it is of importance. The book, of course, is no "law book" of the type usually announced in a law review. Its significance is of a higher order. If the peace is built in the spirit advocated by Doctor Hermens, the hope is justified that law will reign in the relations among nations; if not, we had better turn our law schools into training camps.

Brecht's book supplements that of Hermens in an important respect. In describing in detail the devious ways by which Hitler finally obtained unlimited power, the author demonstrates that Hitler does not represent a unanimous Germany, but that he had to fight an opposition which it was not easy to overcome.

Often in recent years has the question been asked how it was possible that fascism could obtain power in Germany. Many fantastic answers have been given: that National-Socialism is the creature of the German General Staff or the Junkers, that it is

² For a more detailed analysis of this problem, see the same author's *Democracy or Anarchy*, 1941 *Rev. of Politics* 259.

the genuine expression of the true spirit of the Germans, that it constitutes a desperate attempt of dying capitalism to establish a last bulwark against the onslaught of communism, etc., etc. Answers closer to the truth could be obtained if the question were asked how it was possible that Germany, ravaged by war, defeat, revolution, inflation, and unemployment, was able to stave off for so many years that expression of utter hopelessness and reckless despair which fascism constitutes. It took its enemies fourteen years to subvert that democratic German Republic, which is so often now vilified as weak, or, even worse, as insincere. That Republic put up a fight so vigorous and effective that one might, indeed, ask the question whether it would have taken an equally long time to seize power for the Hitler of some other country laboring under such pains as did the Germany of the years of the Great Depression. Outside observers have almost forgotten that the Republic had practically won its fight when the first signs of economic recovery appeared on the horizon, and Hitler was ushered into the Chancellor's seat by the maneuvers of clever schemers who believed that they could thus render him innocuous.

As undersecretary of state and holder of other high administrative positions, Doctor Brecht stood in the front ranks of the fighters for the preservation of the German Republic and occupied a vantage point of observation. Now living in the United States, he looks back over the years of the fight against Hitler's fascism in this book, which he has dedicated to the memory of two victims of the Hitler terror, his sister and her Jewish husband. One might wish that Doctor Brecht had more vividly described the fight put up by the non-fascist masses of Germany themselves. He has not written here the story of the Reichsbanner Schwarz-Rot-Gold and other democratic mass organizations and groups. What he has given us instead is a highly instructive description of the constitutional, legal, and administrative battles. It ought to be remembered that Hitler made his revolution "legally." As a member of the high civil service Doctor Brecht has had the training of a lawyer. Before he joined the administration, he had been a judge. In that phase of the battle of the Republic which was fought in the courts, Doctor Brecht represented the democratic government of Prussia against von Papen's government of the Reich. The author's emphasis on the legal aspects of the struggle is apt to obscure the strong popular forces which had ranged themselves against fascism, but it makes interesting reading for lawyers, who may well ponder about the chances of a "legal" revolution under another constitutional system.

Another merit of Doctor Brecht's book is his insistence upon precise political terminology. A serious distortion of history has resulted from the indiscriminate use of the word "fascism." One of the most prominent of American liberals has recently called a fascist everyone "who places property values above personal values"! Other participants in American domestic controversies have been using the term even more loosely, so that one might define with them as a fascist everyone who holds a political opinion different from that of the particular speaker or writer, a definition which turns the words fascist and communist into synonyms. Equally loose has been the use of the term when it has been applied to political phenomena abroad, in the Americas as well as in Europe. This vagueness of terminology is dangerous. The word "fascist" is loaded with emotion. In a democratic world it must be a term of extreme opprobrium. Its deliberate, as well as its even more frequently ignorant, misuse is likely to discredit men or movements which may have nothing in common with fascism properly defined and which might even constitute valuable allies in the fight against fascism.

Doctor Brecht defines fascism as a political system which always includes the fact that "physical force, or the systematic threat of physical force [terror], is employed for the purpose of suppressing any expression of opinions that are opposed to those either held or tolerated by the fascist group. It is characteristic of fascism . . . that the use of physical compulsion is glorified as a principle superior to the principles of discussion and peaceful persuasion."

Equally precise is Doctor Brecht's definition of totalitarianism as the system which "refuses to acknowledge any limitation on what the government is entitled to do in order to reach its proclaimed purposes." Properly he adds that "there are brands of authoritarian government that are neither fascist nor totalitarian, such as constitutional limited monarchy. Even absolute monarchy is not totalitarian, if the monarch recognizes the law of God or ethical principles as binding on him."

A clear understanding of these distinctions should make it apparent that not even all the enemies of the German Republic were fascists or totalitarians. Many of them were conservatives, even reactionaries, but properly Doctor Brecht insists upon the fact that they were not worshippers of violence, terror, or lawlessness. The fascist type of enemy of the German democracy did not figure prominently before the Great Depression.

The final merit of Doctor Brecht's book is that it destroys the myths about the German civil service and judiciary. The German officials and judges were far from being united in fascist leanings or even reactionary views. Fascists, indeed, were practically nonexistent among them. Why then, it will be asked, did they submit to Hitlerism? The answer will be found in the pages of Doctor Brecht's well-balanced book.

MAX RHEINSTEIN*

Municipalities and the Law in Action: Proceedings of the 1943 War Conference of the National Institute of Municipal Law Officers. Edited by Charles S. Rhyne, Executive Director. Washington: National Institute of Municipal Law Officers, 1944. Pp. 553. \$10.

The 1944 *Municipalities and the Law in Action* and its predecessors should be in the library of every law school, and in the library of every lawyer who has any mentionable amount of municipal law practice. Certainly it should be in the library of every city legal department. The book has the flavor of practicality. It is neither a textbook nor a casebook. It does not give the impression that it was dragged out of a courtroom or handed down from the bench; rather it gives the impression of having grown up in the atmosphere of the city attorney's office, the city council's meeting-room, the city manager's office, and those other offices and boardrooms where legal problems affecting municipalities are brought to light under present-day conditions and solved.

The legal problems that are discussed are those which city attorneys, city solicitors, and corporation counsels have encountered. They are not problems which grew out of researchers' desires to solve some legal riddles merely for mental exercise. Some of the problems have existed for years and will always exist, some of them are problems which will be solved and will cease to plague municipalities, while others were born of the war and will disappear with the war, but will probably reoccur with the next war.

* Max Pam Professor of Law, University of Chicago.