

# Business World's Grievance Against Germany

## A Nation Organized Like a Trust, Conspiring for Restraint of all Trade Without Guidance of Reason or Conscience

By EDWARD A. BRADFORD.

AS the recording angel catalogs Germany's crimes the world's wonder grows how such things can be. How is it possible for a man to order such a crime as the invasion of Belgium, or the destruction of the Lusitania, or the shooting of a nurse or the Captain of a merchantman, or other acts breaching every law, human or Divine? Or, how is it possible for officers and gentlemen to execute such orders?

There is no answer to such questions regarding countries peopled or ruled by men, and such crimes are not done in their behalf. The meaning is not that Germans are not men, but that they have subordinated themselves to their place in their State as subjects, mere cogs in a mechanism. That is not true of any other nation in the sense that it is true of Germany. It is not true of any State where the ruler is supreme. In that case there is a union in the individual ruler of all powers of knowledge, judgment, and action. History holds few if any monsters without traces of conscience and morality in their acts as monarchs. If a Czar or a Sultan be taken as types of such rulers, the results are found in the fates of their countries. No individual can have or use the knowledge necessary for permanency of power of that sort. If used under moral restraints, or if used in disregard of conscience, the end is equally sure and the same, namely, collapse through the incapacity of a single mind both to know all and do all.

The end of Germany is not in sight for that reason, and Germany is not that sort of State. It is true that the Kaiser boasts himself such a monarch, and that there is a lack of responsiveness of the German Government to the popular will. Nevertheless the Kaiser is not supreme. He is not subject to his subjects, but he is subject to the German organization, and the German organization is the enemy of the world rather than the Kaiser. No doubt the Kaiser has a grievous share of responsibility, and the world will not acquit him as a man, any more than the man who released the torpedo against the Lusitania.

But the titular head of the State and the humble officer were but the extremes in the personnel. They were not the organization, which had both hands and brains, but lacked a personal conscience. The organization which possesses a conscience is as rare as the man who lacks one in at least rudimentary form. As the lawyers say, corporations have neither souls to be damned nor bodies to be kicked. That is true of Germany so far as the outside world is concerned. The task of the world respecting Germany is much the same as that of the United States respecting its trusts. Germany must either be brought under the law, or, better yet, be given a conscience for self-control.

Ambassador Gerard makes this plain in his book on his four years in Germany. What, he asks, is the mysterious power which changed the policy of Germany toward the United States, and ordered unrestricted submarine warfare?

It was not the Chancellor, who notoriously opposed; it was not the Foreign Office, nor the Reichstag, nor the Princes of Germany; \* \* \* it was not the Emperor. It was Ludendorff \* \* \* Chief of the great General Staff, who decided upon this step \* \* \* the one force in Germany which ultimately decides every great question, except the fate of its own head, is the great General Staff.

The staff decides, the line executes. Both are impersonal. Neither regards itself as responsible to any law, either human or Divine, and neither has a conscience or sense of morality, as men have. That was the fault of our trusts before we reformed them. They were too effi-

cient, and cared nothing for any restraint upon their efficiency. There was no law to control them, for there is no common law in the United States Federal jurisdiction, except such as Congress enacts, and Congress had never created any control over trusts in interstate commerce. To make the parallel complete, it is only necessary to suppose that the world is on the eve, perhaps, of making the same mistake regarding the German organization that we made regarding our trusts. We thought, or most of us thought, that the trusts should be smashed. It was tried and abandoned as impossible of accomplishment, and too destructive if done.

There are those who think now that Germany should be smashed. It is probably both impossible and undesirable to smash Germany, just as it is likely that Germany cannot smash Russia. Germany and Russia are likely both to survive all that the world can do to either of them. Russia needs a General Staff, but the world cannot allow Germany to bestow it, at least not until the world has given a conscience to the German General Staff, or has established an international jurisdiction and law for the control of nations in the form of trust organizations.

Every land has its trusts, and experience shows that their line and staff organization hardly knows any limit in law or morals to their accomplishments in economics. Other nations have brought their trusts under the control of law. Some trusts have developed a moral sense, and found it good business. Germany made its trusts official while we were smashing ours, before we learned that control and harness were what the case called for. In their external activities German trusts and German Government are two of a kind. Men of business have grievances against German trusts which resemble in quality and quantity of offense the grievances the nations and peoples of the world have against the German Government, or, as is suggested here, against the General Staff and line organization rather than against the political organization.

Germany might have its own sort of politics if it would keep it at home. It cannot export its Kaiser or Reichstag. But it exports its organization in the sense that its activities are felt economically throughout the remotest corners of the globe. Germany scuttles competitors

as ruthlessly as she scuttles liners, and with as little conscience. Her competition is as "unfair" as that of our trusts before we put the hooks of the law into the jaws of the leviathans.

It is necessary to curb Germany in order to make the world safe for democracy. It is even more necessary in order to make the world safe for business. And the number of those who care for business is incomparably larger than the number of those who care for politics. Democracies and republics have sympathetic relations, just as all monarchs are "cousins." But business makes the whole world kin, and there is business under monarchies and democracies alike, without regard to politics. There is no law about politics, and probably never can be, so long as politics does not disturb property and business. But there is a world law of business, for all the world trades together, and thereby establishes a common law of business. The world problem is to enact an existing international common law of business, just as we had to enact an existing common law for the regulation of trust conduct.

It is easy to see why there is no international code of law, and why there never can be one, so long as business and politics are mingled. No nation can allow another nation to impose law upon it, and no formula for international law can be agreed upon. Under our laws a man is entitled to trial before a jury of his peers. There can be no such jury in international cases. The case starts with prejudices, which never were so strong as now. The world is in hostile camps, and there are those who would like to see business done under systems of boycott or economically hostile organizations. This war must have an end, but a war of boycott would run interminably, with loss for all and benefit to none.

Preferable to a war of all against all would be a union of all for all. This never can be accomplished by imposing a new law. Our Supreme Court found that impossible in the case of our own domestic affairs, and the task grows with each Government brought into the combination against conscienceless organization in business. The solution is hinted in our Supreme Court's discovery of the rule of reason, and adoption of existing common law. The international rule of reason would be the divorce of business from diplomacy and politics, and the adoption of commercial practice between individ-

uals to guide the principles to govern nations in their business relations.

It may have been made plain that it would be useless to appeal to the German General Staff regarding what international law ought to be on such matters. There would be the same difficulty, in less degree, in leaving the regulation of such matters in future wars to the diplomats or Legislatures of any nation, or of all nations. That is the rock upon which the drafting of international codes has been wrecked heretofore, and might be expected to be wrecked hereafter until human nature shall have been regenerated. Thus it was not possible to make the Declaration of London international law because Germany wanted to put into it the German idea of freedom of the seas, particularly the "right" of capture of food destined for noncombatant enemies on the plea that it was intended for enemy armies. Germany might as well have proposed that it should be unlawful for the United States to sell food to England.

On the other hand, it might be possible to leave even to German lawyers the question of fact regarding what the international law is, as distinguished from what the law ought to be. Thus even amid the temptations to pervert the law in favor of Germany in this trying time the German courts reach such a righteous anti-German decision as this, picked at random from the current cablegrams:

AMSTERDAM.—The Hamburg Prize Court has condemned the German Empire to pay 1,318,000 marks damages to the owners of the Dutch steamer Gamma, which was sunk by a German submarine in February, 1917. The vessel when torpedoed was carrying a cargo of linseed cake from America to Amsterdam.

British prize courts in this war have found against England, and no American can doubt that an American court would have found against the United States if it could be conceived that the United States could have been guilty of sinking a neutral steamship bound with noncontraband between neutral ports. Lawyers of any country could be trusted to say what the law is, but the General Staff of no country could be trusted to make the same law for another country.

The world is now hardly more than a township, so closely do the nations trade with each other, by the help of electricity and steam. This war surpasses all other wars in the demonstration of this, with what it implies, namely, that economics are more important in international relations than politics. To the nations immediately concerned it matters little whether they are governed by an inefficient Czar, or a too efficient Kaiser, or Bolsheviki who neither know nor care anything about efficiency, even of government. The principle of the self-determination of peoples may extend to the choice of a Kaiser, or a Czar, or a President of a democracy. On the politics of the choice international law would be silent. But international law would not allow any form of politics to justify the repudiation of such a debt as our advances to Russia among our other allies.

The rights of property are the same everywhere in principle, and a General Staff would assail them alike everywhere, according to the necessity of the combat. That the German General Staff makes its laws as it goes along appears from the following current cablegram:

CHRISTIANIA.—Germany wants to make it appear that she has the legal right to sink neutrals outside the danger zone.

Thus at every turn it appears that the German General Staff is the enemy. Germany must be beaten not because she is an empire whose Emperor relies upon the shining sword, but because she is organized for plunder like a malefactor trust, whose shining sword knows no law and is hardly to be distinguished from a burglar's tool.