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CZECHOSLOVAKIA
AND THE
SUDETE GERMANS

CZECHOSLOVAK SOURCES AND DOCUMENTS

No. 25

CZECHOSLOVAKIA
AND THE
SUDETE GERMANS

By
BOHEMICUS

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"ORBIS" PUBLISHING CO., PRAGUE

PRINTED BY "ORBIS" PRAGUE XII

I.

THE NATIONALITY QUESTION IN THE FORMER AUSTRO-HUNGARIAN MONARCHY AND IN PRESENT-DAY CZECHOSLOVAKIA

A single glance at the nationality map and nationality statistics of the former Monarchy reveal the very clear cut features of the nationality question there: in Austria-Hungary there was not even a simple, to say nothing of a qualified, national majority (of the nationalities that had the political power and were relatively the strongest in number the Germans represented 22% and the Magyars 19%). At the same time the Magyars and the Czechoslovaks were the only nations whose territories and subjects were entirely concentrated on the soil of the Monarchy. All the other nationality groups—the leading group of Austrian Germans included—were branches, or spurs as it were, of nations that had their home outside.

Even if we consider these nationality conditions from the dualist angle the picture undergoes no

very substantial change. In the Cisleithanian portion of the Monarchy the Germans had no absolute majority, being only 36%, while in the lands of the Hungarian Crown the Magyars represented 45%.* The Magyars in Hungary had of course the advantage of a central position which the Austrian Germans had not in any such measure.

Another fundamental characteristic of the nationality position in the former Monarchy issues from its history. Historically, the Monarchy was composed of State entities or fractions, the character of which was largely national. By this we do not mean to say that the Czech or Hungarian or Austrian territories at the time when they entered the community of the future Empire were "national" States in the sense as understood to-day. That would mean transferring present-day conceptions into the past, and that would be least of all appropriate for the old Kingdom of Hungary which had a typical international regime. The old Bohemian Kingdom had in its rulers and institutions far more of the national Czech elements, although at the period prior to the Battle of the

* We naturally include the Transylvanian Szekels among the Magyars. We do so as a matter of course, and ask that critics of the nationality conditions in Czechoslovakia when they examine into the respective proportions of the nationalities, should equally as a matter of course refuse to divide the Slovaks from the Czechs, for the national unity of the Czechoslovaks is at least as complete as the national unity of the Danubian Magyars with the Transylvanian Szekels.

White Mountain the German element also had considerable influence. What, however, we desire to bring out is the fact that the character of the population of these various parts from which the Monarchy arose, judged from the angle of language, showed in every case a preponderance in favour of a certain nationality. When, therefore, modern nationalism was awakened in the XIX century on the soil of the Monarchy, these nationalities were able to appeal to, and to strengthen their national movements by, the old regional traditions of these historical elements. This is the reason why the theorists of nationalism in the former Monarchy used often to speak of historical and non-historical (*geschichtslose*) nationalities. This was the force which Czech or Magyar historical rights lent to the Czechoslovak and Magyar national movements respectively. This was one of the main reasons why the Polish nationality in Galicia had such an absolute preponderance over the Russian, although it exceeded the Russians but slightly in number.

From these facts of racial proportions, of distribution and historical traditions issued—more than from anything else—the character of the Monarchy as a State of pre-eminently nationality character. Since no State can exist by virtue of mere inertia, the Habsburg Monarchy, too, needed some conception, some idea as the reason of its existence. For two centuries and a half that con-

ception was the idea of common defence and the protection of Europe against Turkish expansion. Is it not characteristic that the completion of the last step on that anti-Turkish path—the annexation of Bosnia and Hercegovina—was simultaneously the Monarchy's first step towards its grave, since it had not succeeded in acquiring in good time any other *raison d'être* than the one that the course of history had exhausted? For at least half a century before its collapse the Empire lived solely for dynastic interests, at the same time artificially playing off the interests of the one national groups against the interests of the others. A genuine "Austrian" idea, apart from the interests of the Habsburg-Lorraine dynasty during that period no longer existed, and as "Austrianism" possessed no other content—at least none in which the citizens of the Empire could see some future, some progress, some connection with world currents and developments—"Austrianism" became despised by all the nations, the dominant and the oppressed alike.

A nationality State void of nationality ideas—this was the tragedy of the Monarchy, the primary cause of its destruction! If we take any example of a nationality State from present times or from the past we always see, whether we approve or disapprove of its idea, that such an idea is to be found wherever such a State lives without passing through crisis of existence. Do we not find it in

Swiss federalism, in Switzerland's function as a factor that neutralizes one of the most delicate frontier areas in Europe? And in this case is not the idea combined, too, with the mission which the Swiss have assumed in determining to show themselves as a model of real democracy in the current of development of constitutional forms? But even if this second meaning of the existence of that Republic were to disappear, even if its internal structure should alter as against its traditions hitherto, that first European and international aim and purpose of its existence would continue to preserve the conception of "Swissdom", that dignity and local justification such as the conception of "Austrianism" lost long before the collapse of Austria-Hungary. Belgium, another example of a nationality State had for long decades a similar dual sense and super-national idea to that of Switzerland; it, too, helped to smooth down points of friction at a specially delicate spot, and it, too, was a model for one of the several forms of the constitutional expansion of modern democracy—the constitutional Monarchy. If this latter meaning of Belgium has weakened of late and if its importance is no longer capable of counteracting the disintegrating tendency of nationality in this country to the same extent as formerly, the first meaning is preserved in undiminished measure and ensures the "Belgian" idea a strength which will certainly not permit of

a complete severance of the Flemish and Wallon elements in the near future. Soviet Russia, alongside the traditional function of the Russian Empire to stand on guard between the European East and Asia, has also this second meaning—to be the organ of social revolution carried out by the method of class dictatorship. Even he who cannot acquiesce in this idea must admit that its international and super-national aspect has prevented the falling asunder of the Union as a federation of nationality States into its individual national fractions, in other words, federalisation has here prevented disintegration.

There was nothing of this kind in the Habsburg Monarchy. In vain was the appeal of those who desired that the Monarchy should devote itself to the work of democratising the Danubian basin, and that in this by no means idyllically calm area it should become an organ of pacification, alleviating the antagonism of component nationalities by internal justice and the imperialistic designs of its neighbours by holding aloof from their interests. The Monarchy, wherever it could, avoided any democratisation, it built up its structure on internal injustice, and in foreign affairs placed itself at the service of one imperialism against another. In this way it proved faithless to any special function and mission of its own, any idea appropriate to its character as a nationality State. It gave its racial groups nothing that

represented such a moral bond for its subjects that they would be ready on that account to limit their national interests and to abandon the ultimate consequences of those interests which, concretely expressed, would have meant contenting themselves with the federalisation of the Monarchy instead of its dismemberment, would have meant seeking forms and methods for what in the Danubian area means community rather in the sphere of federal than international collaboration such as—not without difficulty—we strive for to-day.

The nationality question in the former Monarchy thus developed to the stage, as it were, of the Gordian knot, for the character of which we coined the formula: a nationality State lacking super-national, international directives and ideas. How utterly different is the nationality question in the Czechoslovak Republic!

First of all wholly different racial proportions exist here: there is a secure, qualified, two-thirds national majority, the internal unity of which—after the relics of the former artificial lack of unity have been overcome—will at the very least be equal to the national unity of the Germans of the Sudete or Alpine districts in Cisleithania, or the Danubian or Transylvanian Magyars. This Czechoslovak nation has not only a central position but it is distributed everywhere, that is to say, the other nationality groups are located along

the frontiers of the State in a series of areas that have often no mutual connection with one another, while their common centre is outside, on the territory of the majority nation. The centre of the whole German element in Czechoslovakia—a natural and in no way compulsory centre—is, and will continue to be, Prague. The centre of the Magyar element in Slovakia is Bratislava, and should it cease to be so, no place within the areas peopled by Magyars in Slovakia will apparently take its place. The only exception to this rule is the case of the Carpatho-Ruthenians who to a certain extent have a national territory to themselves.

The Western part of the Republic which represents 55% of its total area and is peopled by 70% of the entire population—the so-called Sudete lands—have from the earliest times had their historical and political individuality, an individuality not created for any definite purpose of the moment but one which owes its existence to its own inevitable fate. As in the case, for example, of Switzerland—it is in the interest not only of this country but also of the common interest of Europe that it should live a life of its own upon this naturally created spot of earth. In view of the reconstruction, too, which Eastern and Central Europe underwent at the close of the Great War it is likewise in the general interest that the Carpathian range with its valleys—Slovakia and

Carpathian Ruthenia—should join in the specific mission of the Sudete area.

There can be no doubt that even in a State with such racial composition other nations have always a substantial share, a share substantially greater than is usual in the case of States so uniformly national as for example Germany, Italy or France, where the racial minorities are a merely local feature, and have no influence upon the aspect of the State as a whole. In Czechoslovakia at least the German group has an importance far beyond that usually associated with the conception of a racial minority. The other nationalities—the Magyars, the Poles and the Jews—are minorities in the current sense of the word.

From all that has been said above it emerges clearly that to speak of Czechoslovakia as of a nationality State in the sense in which the former Austro-Hungarian Monarchy was a nationality State is quite out of the question. In this connection there is no analogy between the two. On the contrary, when the Monarchy—not having succeeded in adjusting itself on a federal basis—collapsed through the influence of the principle of nationality, Czechoslovakia undoubtedly inherited from it the function of providing a suitable home for the national life of the Czechoslovaks as the nation that was not only the numerically strongest within the new frontiers but also as the one national group that was not the mere

branch of a nation having its cultural centre in another State. This exclusive character of the Czechoslovak nation increases its importance for the State over and above its mere numerical proportion. Other nationalities could only enjoy such a position of preference if they desired to sever, and succeeded in severing, all the racial bonds uniting them with their foreign "mother nation", and became nations for themselves as in the case of the Czechoslovaks. Such a change cannot of course be justly demanded of any of the minority nationalities, nor would the realization of this depend solely on the simple decision of the members of a nationality. It would involve a great cultural process—one doubtless lasting for several generations. But if such change is not taking place one cannot shut one's eyes to its absence, or better expressed, to the superiority in this respect of the Czechoslovak nation.

On the other hand it is clear that Czechoslovakia is not such a type of national State as Italy, Germany or France. In this connection it is in particular the German group that prevents the State from having that character, while the other minorities would allow of it. Thus the character and position of the German minority is substantially different—stronger and more responsible—than that of the Magyars or Poles in Czechoslovakia.

II.

THE SITUATION OF THE GERMANS IN CZECHOSLOVAKIA

The Germans in Czechoslovakia are—except for the Ukrainians in Poland—numerically the largest minority in Europe. The census of 1930 showed that they numbered 3,231,688. They thus exceed in numbers more than one of the small independent States of Europe. Nevertheless they have never been, nor can they ever form, a State for themselves, for they completely lack geographical concentration, inhabiting only the mountainous frontier regions of the classical geographical unit of Bohemia and the mountainous northern belt of Moravia. These frontier regions are interspersed with areas inhabited by Czechs and Slovaks and other nationalities, and form 8 different areas unconnected with one another. The largest of these areas has 2,067,704 inhabitants and, moreover, is itself broken by the Most-Duchcov corridor reaching there to the frontiers, where the

number of the Czech inhabitants equals almost the number of the Germans, so that even here we cannot speak of a united area. The smallest 10,011. The total German population in these 8 areas is 2,495,633. In addition to that there are 736,025 Germans living in districts with a Czech majority population. In those 8 areas where the German element forms a compact majority in each there are also 440,561 Czechoslovaks and 10,458 persons of other nationality living in scattered fashion. In a word—the Germans in Czechoslovakia can form neither an independent State of their own nor an autonomous territory within the framework of the Republic.

The German element in Czechoslovakia is rooted in the State and has evolved with it. It has grown to be one with it to such an extent that it is impossible to separate it in the way of territorial autonomy. This is of course an unwelcome fact only to the extreme nationalist German separatists. For the practical minded Germans it represents the second strongest aspect of the German minority in Czechoslovakia after the numerical strength of that minority. If its connection with the State were a loose one, inorganic or even of recent date; if its severance were easy, the majority would either rightly endeavour to weaken this minority and undermine its vital forces, seeing in it a menace to the unity of the State, or, recognizing the futility of such endeavours in the

case of such a large minority, it would strive to conduct its affairs without it, would exclude it from all influence upon affairs, and would eliminate it from the essentials of the State power, so that at the moment when the feared moment of severance came it would be as little affected by that severance as possible. The German minority in Czechoslovakia has only this organic connection which it possesses with the majority and with the State itself to thank for the fact that neither the first nor the second of the two above-mentioned fates has not befallen it. Does it not bear witness to the convincing strength of this connection that precisely at the present time of extreme tension the Czechoslovak nation is not eliminating the German element from the Government, from the public offices, from the central departments of State authority, but is extending the position of that element, and is quietly and fearlessly consolidating its economic and cultural position, being certain that in Czechoslovakia the interests of the majority and those of the minority are not in conflict with one another, that the success of the one is not secured at the cost of the other, that the mutual relations are not parasitic but symbiotic. This conviction springs precisely from the organic connection—tested by so many experiences—of the Germans in Czechoslovakia with the State as whole, and thus we are able to say that next to the numerical proportions of this national group its strength

is based upon its inseparable, organic connection with the State.

The importance of the German minority in Czechoslovakia lies further in its cultural and economic strength.

To-day the Czechoslovak Germans possess a University and two Colleges of Technology, that is, three institutions of university rank. They are the only German minority group, indeed the only minority throughout the whole world, which possesses institutions of university rank. If we compare the fact that in Switzerland there are 3 German and 2 mixed institutions of university rank, the cultural position of the Germans of Czechoslovakia is comparable to the position that exists in countries where the Germans are in the majority. The Germans in Czechoslovakia have also 73 grammar and modern schools, 10 teachers' training colleges, 193 public technical schools, 423 upper-elementary and 3,233 elementary schools. They will have their own Academy of Science and Art for which legislative provision is just now being made. They possess more than 3,500 public libraries, 177 public popular educational corporations, and now their own German broadcasting station. Statistics of the year 1935 show that they have 63 daily papers and 143 political periodicals that appear other than daily, besides a whole series of non-political journals. They issue 1,371 books a year (figure for 1935), and

they have a number of theatres. They have a cultural federation to foster popular education; it has some 3,500 local branches, and a total membership of about 500,000. Every year it receives a substantial subvention from the Government.

Not only the cultural but also the economic equipment of the Germans in Czechoslovakia is extensive. The German element in the State is still of more industrial character than the Czech, although in the advance of industrialisation under the Republic the Czechs are now making more rapid advance than the Germans. In 1930 the proportion of the Germans earning their livelihood on the land was 23.03% (in 1921 it was as much as 27.29%), while those engaged in the trades and industries represented 45.48% (43.59% in 1921). These percentages among the Czechoslovaks in the Sudete territories were: in agriculture 27.33% (34.41% in 1921), and in industry 39.44% (37.92% in 1921).*) The social composition of the two nationalities is analogous: among the Germans 39.8% are independent undertakers, 7.8% of the category of officials, and 44.7% are workers. For the Czechoslovaks in the Sudete lands the percentages are 39.9%, 7.41%, and 47%. An interesting feature—especially from the angle of the much criticized land reform—is the picture presented to-day, after the completion of the land

*) We compare conditions only in the Sudete lands, since 95% of all Germans live there.

reform, of the structure of agriculture among the two nationalities. Among the Germans the proportion of the so-called allotments (from 0.1 to 1 hectare) is 31.4%, and among the Czechoslovaks 31.9%; that of small holdings (1—5 hectares) 36.9% among the Germans and 42.3% among the Czechoslovaks; that of the cottage farms (5—10 hectares) 13.9% and 13.2% respectively; that of small farms (10—20 hectares) 10.4% and 8.3% respectively; that of medium-sized farms (10—50 hectares) 6.5% and 3.5% respectively; that of large farms (50—100 hectares) 0.5% and 0.4% respectively, and that of the large landed estates (over 100 hectares) 0.4% and 0.4% respectively. From the above it will be seen that the structure of agricultural enterprises is now much the same from the social angle among the two peoples.*)

From these figures it is to be seen that the Germans in the Czechoslovak Republic, especially in the Western half, can boast of due economic development. They have a complete and not a merely fragmentary social structure; they are not merely a rural nationality (as were the Slovaks, for example, in former Hungary), nor have they an excessive town character (as is largely the case with the Germans, for instance, in Polish Upper Silesia). They are not a nationality devoid of an intellectual class, nor again do they lack working

*) Oberschall: Berufliche Gliederung und soziale Schichtung der Deutschen in der Tschechoslowakei, 1936.

classes. In short they are a racial branch well equipped from the social angle, and their equipment in this respect is almost identical with the social structure of the Czechoslovak nation in Bohemia and Moravia-Silesia.

In the year 1930, out of a total of 15,734 parishes and communes in Czechoslovakia there were 3,466 with an absolute majority of German population, and on the principle of proportional representation upon which the local government system rests these parishes and communes have also councils that show a German majority. This means that the local administrative matters pertaining to parish and communal matters are, throughout these areas (in which 87.4% of the total German population live) either exclusively or for the most part in German hands.*) Similarly, out of the 239 district councils in the Republic 50 have a German majority of members. On the councils of the Provinces the German element is also strongly represented. Out of 120 members of the council for Bohemia 37 are Germans (the German percentage of the population is 32.4%); of the 60 members of the council for Moravia-Silesia 14 are Germans (the German percentage of the population is 22.8%). In the Czechoslovak Parliament, 72 of the 300 members of the Chamber of Deputies and 37 of the 150 members of the Senate

*) Winkler: Die Tschechoslowakei im Spiegel der Statistik, Leipzig, 1937.

are German (the German proportion of the entire population of the country is 22.3%).

Of the 17 members of the Cabinet 3 until recently were Germans. During the 19 years of the existence of the Republic the Germans were for 8½ years unrepresented, and for 10½ years have been represented in the Government. It was only under the effect of the March events in Austria that the German members of the Government resigned, and attempts are again being made to bring about representation of the German minority in the Government. In the civil service and State undertakings the German minority is variously represented.

In the sphere of the Ministry of Justice, for example, 11.8% of the employees altogether are of German nationality, but among the judges, magistrates and public prosecutors the German element represents 22.6%, while in the department of health and among the clergy the proportion is as high as 25%. In the departments subordinate to the Ministry of Education 11.4% of the persons employed are Germans, but 34.13% of the district school inspectors in Bohemia and Moravia-Silesia are German, as are also 21.11% of the total number of professors, teachers, and scientific staff in the schools and institutions in charge of the Ministry of Education. Of the total number of permanent and assistant railway employees 11.25% are German, of those in the financial offices 13.33%,

while in the Tobacco Monopoly 33.69% of the workers and contractual employees are Germans. The German element is represented in the postal, telegraph and telephone departments to the extent of 10.39%. It will thus be seen that in several sectors Germans are employed to an extent that exceeds the proportion the German population bears to the entire population of the State ($22\frac{1}{3}$ per cent). Of course it cannot be denied, nor is there any reason to deny, that the Germans are not represented on the whole in these departments as proportionally as they are in the sphere of political administration and in the legislative bodies. This is the outcome of the developments that occurred in the early years after the War. The Czechoslovak Republic took over from the former Monarchy a staff of officials of very mixed orientation and to a large extent inadequate to meet the new conditions. It is only natural that in filling up the posts an effort was made to adapt things to these new conditions. Moreover the central offices of State at Prague had to be organised from the very foundations, and in this case the political authorities had thus a free hand. On the other hand, in the lower instances—the provinces, the districts and the parishes—the difficult heritage of old conditions prevailed. In Slovakia and Carpathian Ruthenia, where great numbers of the Provincial and State employees arbitrarily abandoned their posts before the arrival of the Czecho-

slovak Government, it became essential to reconstruct entire branches of public administration. The legislature of the early post-War years, the wide expansion of social welfare measures, the relief of War invalids, etc.; the introduction of new branches of technical administration, and the like, led to a further increase in the number of State employees. When we remember that all this had to be accomplished in the first few years of the State's existence when the political representatives of the German minority were sharply opposed to the regime it cannot be wondered at that a certain disproportion in the filling of posts should have arisen. Just of late, however, energetic steps have been taken towards securing a general due proportionality in this connection. The agreement arrived at on the 18th of February 1937 between the Czechoslovak and German members of the Government expressly refers to the introduction of this proportionality. The filling of posts from the ranks of new applicants in 1937 has revealed a strong general trend in the direction of a due proportion, and on the occasion of the passing of the Budget for 1938 in Parliament this Government agreement was approved of by a striking majority of the Chamber of Deputies.

From all that has been said above it is clear that the German minority in Czechoslovakia possesses by virtue of its numbers, its territorial distribution, its organic fusion with State and its measure of

cultural, economic and political organisation, a position that is not only stronger but substantially quite different from the general run of that of the racial minorities in other countries. It is not a "necessary evil" for the majority or for the State; its degree of development is not a provisional stage precedent to some assimilation. No one dreams of its assimilation, its existence and its development are on a firm basis and assured. The German minority is, as the late first President of the Republic T. G. Masaryk said, "an organic part of the State". It is no passive object, but an active participant in the subjectivity of the State authority. Its struggle, as the second President, Dr. Beneš, has said, is not a struggle for existence but a struggle for a due share in the conduct of the State policy. By virtue of this fundamental characteristic of its position the German national group in Czechoslovakia is to be regarded as an essay towards a second State nation rather than a minority in the ordinary sense of that word.

III.

BRIEF OUTLINE OF CZECHOSLOVAK NATIONALITY LAW

The system of nationality law in Czechoslovakia may be characterized by saying that neither the Charter of the Constitution nor any other legislation in principle recognizes the nationality groups as entities. Neither the Czechoslovak nor the other nations, the minorities, are the subjects of any collective rights.

The Czechoslovak nation is indirectly secured in its rights by the guarantees of the permanence and security of the Republic as a State entity in which it possesses the actual predominance, but the nation itself as a group has no special rights. The racial minorities are protected, likewise indirectly, by the guarantees, on the one hand, of certain universal civic rights (e. g. equal franchise with proportional representation), and, on the other hand, by the specific guaranty of the national character of their members in certain directions. But they, too, have no special position as a group. It is

wrong to deduce any collective rights for the Czechoslovak nation or for the racial minorities either from the preamble to the Charter of the Constitution*) or from the heading**) of its Section VI. These passages have no constitutional significance. They lay down nothing. The content, the actual legal material, follows them and depends upon what is stated there. Neither in the Charter of the Constitution as a whole nor specifically in its Section VI is anything said of collective rights for the nationality groups.

Thus the system of nationality rights is purely individualistic.

The individual nationality rights incorporated in the Constitution and other prescriptions are of

*) The preamble runs: "We, the Czechoslovak nation, desiring to consolidate the perfect unity of our people, to establish the reign of justice in the Republic, to assure the peaceful development of our native Czechoslovak land, to contribute to the common welfare of all citizens of this State and to secure the blessings of freedom to coming generations, have in our National Assembly this 29th day of February 1920 adopted the following Constitution for the Czechoslovak Republic; and in doing so we declare that it will be our endeavour to see that this Constitution together with all the laws of our land be carried out in the spirit of our history as well as in the spirit of those modern principles embodied in the idea of self-determination, for we desire to take our place in the Family of Nations as a member at once cultured, peace-loving, democratic and progressive."

**) The heading runs: "Protection of National, Religious and Racial Minorities".

two kinds: in the first place there are the regulations based on the principle of absolute equality of the nationalities, and secondly there are those based on certain preferences for the members of the Czechoslovak nation.

1. The provisions of nationality rights resting on the principle of equality of the rights of Czechoslovaks and of the minorities alike are very broad. Thus the Constitution guarantees all without distinction equal protection against forcible denationalisation (§ 134), and all persons residing in the Republic are assured, in like measures as are its subjects, of the absolute protection of life and liberty (§ 106). Exceptions to this principle are only permitted in so far as allowed by international law. The specific equality of Czechoslovak subjects—that is, a more restricted category than that of persons resident in Czechoslovakia—applies, under the Constitution (§§ 128, 130), to the enjoyment of equal civil and political rights, to entry into the public services and offices, attainment to any dignity or to the exercise of any trade or calling, as well as to the free use of any language whatsoever—within the limits of the common law—in private and business contacts, in the press, in publications of any kind, in public meetings and in the exercise of religion; as well as equal rights of founding, conducting and administering at their own cost, and in accord with the general law of the land, philanthropic, religious

and social institutions, schools and other educational institutions, and to the free use therein of their own language.

Among other internal regulations, based upon the principle of absolute equality of rights, there is, in the first place, protection of nationality by means of sanctions; any person who publicly incites others to acts of violence or other unfriendly action against individual sections of the population on account of their nationality, language or race is guilty of a misdemeanor punishable by imprisonment varying from one month to one year. Any person who incites others to hatred of individual sections of the population on account of their nationality, language or race is liable to punishment varying from 14 days to 6 months. Anyone who publicly incites others to acts of violence or other unfriendly action against an individual on account of his nationality, language or race is guilty of a misdemeanor punishable with imprisonment varying from 8 days to 3 months. Similar penalties are provided for any person who in gross and coarse fashion publicly calumniates the nation or a racial minority in a manner calculated to lower esteem of the Republic or to endanger public order in the Republic or adversely affect its international relations (§ 14 of the Defence of the Republic Act, No. 50 in the Collection of Laws and Decrees of 1923). These penalties protect all nationalities in equal fashion, and they protect not only Czecho-

slovak subjects but also the subjects of other countries. In addition to this, sanctions are provided to protect nationality from oppression (§ 1 of the Act of Parliament to prevent oppression and to protect freedom of assembly, No. 309 in the Collection of Laws and Decrees, 1921), an offence which is committed by anyone who maltreats another (or his family, his relations or any person under his protection) or causes him bodily harm or injures him in respect of his liberty, his honour, his property or his livelihood, or who threatens him with such injury, or who wilfully exploits difficulties immediately menacing him, or who takes advantage of his own position as official, teacher, clergyman or employer to desire wrongfully to enforce something upon that other, to make him do, or omit or suffer something. A strike or a lockout can be regarded as injury in this sense if it be directed against individual employees for nationality reasons.

The principle of equality of the nationalities finds expression also in civil protection against dismissal from work for reason of the nationality of an employed person (See the Factory Councils Act, No. 330 in the Collection of Laws and Decrees of 1921, which guarantees compensation for employees thus dismissed from their employment).

2. The fragments of national autonomy which have survived, on the one hand, in Czechoslovak law from the Bohemian and Moravian provincial

legislation, or have, on the other hand, been introduced by the new legislation of the Republic also contain elements of the equality of the nationalities. It is on the principle of such national self-government that the elementary schools in Bohemia and Moravia are managed with the aid of local, district and provincial school councils, divided into Sections for the different nationalities (Act No. 17 of the year 1873 and Act No. 46 of the year 1890 of the Diet of Bohemia, and Act No. 4 of 1906 of the Diet of Moravia). These acts have been amended under the legislation of the Republic to the extent that the so-called minority schools—that is, the schools established for national minorities in the educational area of a parish (even Czechs and Slovaks living in the educational area of a German or Magyar parish are a minority in this sense)—are exempt from the jurisdiction of the school councils of the national sections and have their own organs of management, that the district school councils have been dissolved and their jurisdiction transferred, under Government Decree No. 608 in the Collection of Laws and Decrees of the year 1890 to the interim district schools committees on which the teaching staff and the public are proportionately represented according to nationality. The local school councils were reorganized by a Government Decree concerning local school councils (No. 605 in the Collection of Laws and Decrees of the year

1920) in such a manner that arrangement in national sections is possible but not necessary, and that decision on this point is to be made in each particular case. In this case the development of the legal order of things can counter to those elements of racial self-government which we took over from the provincial legislation of former Cisleithania. Of course, these adjustments have all an interim character, and demands are put forward on the part of both the minorities and the responsible Czechoslovak quarters that for a definitive adjustment of school management there shall again be introduced the principle of national division of the administrative school organs in the form of provincial school councils in the Sudete lands subordinated to national sections.

Similarly in both Bohemia and Moravia certain matters in the sphere of agriculture are divided up on the nationality principle, in so far as the Agricultural Council is responsible for them and in so far as their administration is not expressly reserved for the central body of that corporation (Diet of Bohemia Law No. 20 of 1891 and Diet of Moravia Law No. 40 of 1897). On the territory of the Czechoslovak Republic the agenda of the public parish libraries is administered on the principle of national self-government under the terms of the Public Parish Libraries Act (No. 430 in the Collection of Laws and Decrees of the year 1919), and the Government Decree concern-

ing the execution of that Act (No. 607 in the Collection of Laws and Decrees of the year 1919). These measures make it the duty of the parishes to establish public libraries containing reading matter of instructive and entertaining character, and for their establishment and management to appoint a special library council in each case. In the parishes with racial minorities (including German and Magyar parishes with Czechoslovak minority) a library or a special section of the general library has to be established for the minority if it numbers at least 400 persons according to the latest census, or if there exists a public minority school in the parish. The cost of the library is to be borne in due proportion by the nationalities in the parish.

It should be noted that neither in those survivals of pre-War legislation nor in the new measures passed by the Republic is there to be seen the realisation of any system of national collectivism.

Finally, the importance of equality in the enjoyment of political rights (active and passive franchise, etc.) for the platforms of nationality policy in our State cannot be emphasized too strongly. What our legal order means in this connection—for example for the German nationality—we have already mentioned in Chapter II.

4. To the category resting on certain preferences for the members of the Czechoslovak nation belong to-day almost only those regulations relating to the

use of languages in the sphere of *public authority*. They are based on the Language Law (No. 122 in the Collection of Laws and Decrees of 1920). The Language Law was of course not intended to adjust all contacts in the sphere of language, but only in those spheres where the State authority comes into play. (In contradistinction to private, business and religious contacts for which the principle of absolute equality of the languages according to § 128 of the Constitution applies.) For this sector the Minority Treaty of St. Germain concluded with the Allies—which is carried out in the Constitution and the laws supplementing the Constitution—by using the expression “official language”*) left the way open for the rise of certain advantages for the Czechoslovak language, and the Language Law made use of this opportunity, though not to the full extent which the Treaty of St. Germain permitted.

The following are the main principles of the Language Law elaborated on this fundamental basis:

The Czechoslovak language is the official, State language of the Czechoslovak Republic. The conception of “State, official” language is not, how-

*) This provision of the Treaty runs as follows: “Notwithstanding any establishment by the Czechoslovak Government of any official language, adequate facilities shall be given to Czechoslovak nationals of non-Czech speech for the use of their language, either orally or in writing, before the courts.”

ever, defined in the Language Law or elsewhere. The Law, it is true, enumerates a number of the advantages enjoyed by that language, but the list is not a complete one.

The constitutional committee of the Convention Parliament expressed its idea of the position of a State, official language in the preamble to the Bill where it is stated that the Czechoslovak language is to be given preferences "but preferences not of such extent or exceeding the actual needs of the case as were possessed in fact by the German language in Austria or in law by the Magyar language in Hungary."

The Czechoslovak language is the language in which—with the exception of the cases provided for in favour of the racial minorities (see below)—the work of all the courts, public offices, institutions, enterprises and organs of the Republic is done, and in which their pronouncements and notifications, and their external designations are made. What is again to be understood by "the work" of the courts, etc. in this sense? Does it mean any act whatsoever by these organs? Assuredly not. By the "work of the courts", etc. must be understood those acts by the State organs which imply a certain supremacy, whether the supremacy issuing from the sovereign position of the State and of its organs vis-à-vis the outside world and the public, or from the internal organ-

isation of the State administration by reason of superior and subordinate functions in the service.

Thus the Czechoslovak language, according to the Language Law, is the language in which is couched the main text of the State notes and bank-notes, the language used by the defensive forces for giving commands, and the language of the State service. The local government offices, the municipal councils and other similar elected bodies and all public corporations must accept and deal with applications made in the Czechoslovak language either orally or in writing—this is also the case even if the language in which they conduct their affairs is not Czechoslovak—and in their meetings and consultations it is always possible to make use of that language. Motions and proposals put forward in that language must come before the body for consideration. A more detailed elaboration of these brief principles is to be found in a number of special regulations which we do not propose to deal with here (notably in the Government Decree No. 17 of the year 1926).

The other provisions which give some sort of preference to the Czechoslovak nation, in so far as they have practical significance*) are likewise all of a legal character relating to language. Thus

*) Taking of course no regard to some of the regulations concerning post-war option, taking over of officers of the former Austro-Hungarian army, etc., the importance of which was limited to a short period following the war.

the standing orders of the Chamber of Deputies and of the Senate (Acts No. 325 of the year 1920, and 326 of that year) lay down that the Czechoslovak language is the language used in the exercise of his functions by the Speaker and deputy speakers of the two chambers, committees and commissions, reporters, keepers of minutes, stewards, and the office of the chambers, and—in so far as they do not desire to use their mother tongue—of the members of the chambers. The original of a message from the President of the Republic for the chambers of Parliament is likewise in Czechoslovak. According to the law dealing with the designations of towns, townships, parishes and streets, as well as with the marking of parishes (Act of Parliament No. 266 of the year 1920, and the relative Government Decree No. 324 in the Collection of Laws and Decrees of 1921) there is an official name in the Czechoslovak language for every town, township and parish. Such name must—again with wide exceptions in favour of the racial minorities, for which see below—be used by all State and other public authorities as well as in dealing with them. This law gives several preferences in favour of the Czechoslovak language even in respect of the naming of streets and other public places. Then there are, for example, the standing orders of the Constitutional Court (No. 255 in the Collection of Laws and Decrees of 1922) which lay down the Czechoslovak language as the

language of this tribunal; the Bank of Issue Act (No. 347 of 1920 and No. 102 of the year 1925) under the terms of which the Czechoslovak language is the official language for conducting the internal affairs of the Bank, the language to be used at its general meetings, and the language of its announcements, inscriptions and the main text of its bank-notes. It is provided by law that this is the language in which the promulgation of laws and decrees shall be made (No. 500 in the Collection of Laws and Decrees of 1921), and according to a Government Order relating to the official documents of the Czechoslovak State (No. 4 in the Collection of Laws and Decrees of 1920) likewise the language in which are couched the authentic texts of laws, decrees and Government ordinances. According to the law dealing with the State flag, State coat-of-arms and State seal (Act No. 252 of the year 1920) it is the language of the main text of the State seal. Finally, the Czechoslovak language has the character of a compulsory subject in the curriculum of upper elementary and secondary schools of the other nationalities, and can be introduced as such to the elementary schools under the terms of a law which amends and supplements the existing laws on elementary education (No. 226 in the Collection of Laws and Decrees of 1922), and under the terms of a law which regulates the teaching of the State language as well as the languages of the racial minorities into se-

condary schools and teachers' training institutions (Act No. 137 in the Collection of Laws and Decrees of the year 1923).

Over against the advantages given to the Czechoslovak language there is a certain—more or less wide—minimum of legal rights given the minorities in respect of language. In this connection Czechoslovakia is divided into two territorial spheres. The first consists of the area of those court districts where the persons speaking a language other than Czechoslovak did not number on the occasion of the last census as much as 20% of the entire population there. This territory is regarded for the purpose of contact with the public organs as exclusively Czechoslovak in the matter of language. If any matter arises within this area it is dealt with exclusively in Czechoslovak whatever may be the nationality of the parties concerned. This exclusive character of the single-language area represents no difficulty for the parties, for no compact lingual minorities live there but only more or less sporadic minority groups whose members live almost their whole lives in an environment where practically one language—Czechoslovak—is spoken, and thus acquire the State language. Moreover, only mere fractions of the racial minorities speaking another language live here. Finally, the position of these fractions in respect of language is alleviated by the fact that the regulations—even if they do not give the

members of a minority speaking another language the direct rights to have their affairs dealt with in their own language—none the less impose upon the courts and other public offices the duty of making concessions in the matter of language to a party unrepresented by a legal adviser and unable to speak the Czechoslovak tongue.

The remaining areas of the Republic may be called "minority" areas in the sense that within their borders the languages of the racial minorities have their guaranteed rights alongside the Czechoslovak language.

In order that a minority language may be employed in the "minority area" the following conditions must exist: in the first place the jurisdiction of the State organ which has to deal with the particular matter must cover that area; secondly the matter must have its origin within the area, and thirdly there must be a personal connection: the party must be a member of the nationality speaking the language by reason of which the area in question is regarded as a "minority area".

The extent to which a minority language may be used in these circumstances is determined by the right of the members of a minority to have their applications accepted by the courts and offices of the Republic in the minority language, and dealt with in both the State language and the language of the party, in some cases in the latter alone. Even if the courts, the public offices and organs

of the Republic act upon their own initiative---that is to say, not on the basis of an application by a party, they are called upon to make use of the minority language on the like principles. Oral proceedings in such offices and in such matters must, where members of a minority are concerned, take place exclusively in their language. In a "minority area" (that is, in districts where a minority constitutes at least 20% of the entire population) the language of the minority is also to be used in notifications by the courts, the State organs and offices, and also in their outward designations.

This possibility of employing the minority tongues applies of course to procedure from the lowest to the highest instances, that is to the higher courts and the central offices of State.

It can thus be said that in the sphere of the contacts between subjects and the organs of State authority a certain preference is given to the Czechoslovak language. This preference consists on the one hand in the fact that in the areas where only the Czechoslovak language is spoken no other language than that comes into consideration, and on the other hand in the fact that within the areas regarded as "minority areas" (that is, the area of those districts where a minority forms at least 20% of the population) only the members of the relative minority can claim the use of the minority language and not those persons whose mother tongue is the State language. Thus the member of

a minority has the choice of using the State language or his own (the minority) language.

Among the other regulations guaranteeing a certain measure of protection of minority languages may be noted the following:

The standing orders of Parliament permit members who are of German, Ruthenian, Magyar or Polish nationality to make their speeches in their respective language if they do not wish to use Czechoslovak, to present motions, questions and interpellations and to take the oath in their own tongue. Still wider opportunities for the use of minority languages have been introduced by the regulations relating to the use of the various languages in the provincial and district councils and the other local government bodies. The subsidiary text on bank-notes also appears in the minority languages. A minority language may also be employed by military superiors in their contacts with the ranks who cannot speak the State language. For towns and parishes in which at least 20% of the population pertain to a minority, as also in towns which are the seat of State offices and courts and where proceedings must be conducted in a minority language (even if in such town itself there is not the requisite 20% minority) an official designation is fixed upon also in the minority language. The Collection of Laws and Decrees and the official Gazette appear also in the minority languages, but only the Czechoslovak

text is the authentic one. The minority languages have now through administrative channels been made to a large extent compulsory subjects even in the schools in which the Czechoslovak language is the medium of teaching.

Preferential treatment for citizens of Czechoslovak nationality in other spheres than that of language is also assumed in §131 and §132 of the Charter of the Constitution. There it is stated that in towns and districts in which there lives a "considerable fraction" of Czechoslovak citizens speaking a language other than Czechoslovak the children of such Czechoslovak citizens shall receive instruction in their own tongue; that in such towns and districts the minorities shall receive a due share of the specific sums allocated in the Budget or in the budgets of the local or other public authorities to education, religion or philanthropy. This means that the protection granted only to members of a racial minority is based on the assumption that the State authorities will naturally and in the first place see to the satisfaction of the needs in these respects of the citizens of Czechoslovak nationality; of course, the actual situation is such that, as we have seen in the foregoing chapter, the German nationality receives in cultural and humanitarian grants the full proportion corresponding to its population.

In concluding this brief survey of nationality rights in Czechoslovakia let us repeat: it is an

individualistic system in which liberty of the individual from the racial and national angle is protected like all other liberties. Even if, of course, this system allows of associations of the nationalities (for humanitarian, cultural and other objects) it equally admits founding of Societies for other objects without issuing from the principle that a nationality as an entity, as a collective body is the subject of these liberties. This applies equally to the Czechoslovak nation as to the minority nations, to the members of the former equally as to the members of the latter. In the enjoyment of liberties from the angle of nationality all the citizens of the Czechoslovak Republic are in principle equal; only in the use of language in contacts with the State organs and in some cultural matters have the Czechoslovaks a certain priority, while at the same time the position of the racial minorities even in this connection is protected and guaranteed on a broad basis.

IV.
SYMBIOSIS AND SEPARATISM
IN THE JOINT LIFE OF SUDETE GERMANS
AND CZECHOSLOVAKS

As regards the mutual relations of the Czechoslovak majority and the German minority there has always existed ever since the awakening of modern political life in the areas which to-day form the Czechoslovak Republic—that is, since the revolution of 1848—a twofold orientation among the German population in those areas. The one point of view, for which Dr. Spina, for many years one of the German members of the Czechoslovak Cabinet, used the expression “symbiotism”, is the view held by those who believe that the co-existence of Czechoslovaks and Germans is no mere chance affair, that it is not a mere necessary evil that must be reduced to a minimum, but that it is a unique opportunity presented by fate, a historical fact that has been culturally fruitful, an opportunity such as has been given to any other German or Slavonic people. Those who hold this view believe the fact to have profound importance

for the mutual penetration of the two cultural elements and for their joint output in the interests of civilisation generally. The past provides a number of examples of this mutual creation of cultural values—the Reformation, the Baroque age, the enlightenment period as well as the modern democratic trends.

The orientation just depicted is opposed by another orientation—the separatist view. According to this view the co-existence of the two nations is to be regarded as a mere chance one rather than one dictated by fate. Even if by the force of circumstances it is a necessity, it is nevertheless, it is said, of no positive character from the angle of culture. The two nations derive their forces independently, each from its own roots as it were, while the German element in Czechoslovakia, as an offshoot of the great German nation generally, derives far more of its forces from abroad than it does from its own soil here in the Czechoslovak State. The relationship to the Czechs is to be defined as one that exists between neighbours—here more friendly, there less friendly. A certain mutuality and exchange of cultural values is also possible, but no common creative effort. Separatism declines to recognize territorial unity, ancient traditions, economic inter-dependence, and the thousand-and-one personal contacts as positive factors, despite the fact that mixed marriages in this area are so numerous that everywhere in the towns, and

over large regions running deep into the country districts on the racial frontiers, there are very few persons indeed who can assert that their ancestors do not include someone of the other nationality.

The Czechoslovak majority—apart from isolated exceptions—has never adopted a separatist orientation. Always, long before the rise of the Czechoslovak State, it looked upon the unity of the Sudete lands as its heritage. If, prior to the War, the State rights of these Sudete lands had been such a strong political factor among the Czech nation, this was not due to any legitimist conservatism but to the old type of patriotism which regarded the whole of Bohemia and the whole of Moravia-Silesia as its homeland. Those who held this view never manifested any desire to deprive the German inhabitants of the frontier regions of their nationality; they only believed that the German population there was an integral part of a natural whole, and that its existence naturally compelled the Czechoslovak majority fully to respect that existence. Therefore all the proposals put forward by the Czechs in the Old Monarchy for a readjustment of lingual, cultural and other matters were based on the assumption that their German compatriots pertained to the Sudete lands and had a right to equality of treatment and the maintenance of their own national character.

On the other hand, both orientations were held from the very outset among the Germans. It is

true that in the first stage of constitutional life in March 1848 the symbiotic orientation was strongly emphasized. At that time the Germans in the first intoxication of the apparently secured liberties joined with the Czech patriots in resolving to put forward a demand to Vienna for autonomy for the Kingdom of Bohemia. This current, however, rapidly subsided under the influence of the revolutionary waves of pan-Germanism; the agitation for the Frankfurt Parliament set in, and in September of the year 1848 the German Liberals determined upon the so-called Teplice Programme in which the division of Bohemia on a nationality basis was demanded. Later, those who held the separatist view, formulated their programme now only on a lingual and administrative basis (the formation of single-language districts separated by nationality boundaries and subordinated to two-language Provincial authorities), now becoming more radical and demanding outright the division of the Sudete lands of the Bohemian Crown into a Czech and a German territory respectively. After the reactionary regime which prevailed in the Monarchy after the suppression of the revolutionary movement of 1848, when some 12 years later, in 1860, political life revived, the Bohemian Germans again united for a moment with the Czech majority in support of a joint programme of State rights and of the petition that the Emperor should consent to be crowned as the

king of an indivisible Bohemia. The expansion of Prussia, however, after the war of 1866 again radicalized the Germans in the lands of the Bohemian Crown. In 1871, when the Czechs received from the Emperor a promise of the so-called Fundamental Articles—a kind of federal institution for the Kingdom of Bohemia—the Germans at once renewed their demand for a separation of the German-peopled districts from the rest of the Kingdom. The imperial promise was not fulfilled, but the idea of separation in a less radical form continued to be cherished by the Germans, and in the year 1889 the German Liberals put forward their so-called Whitsun Programme in which they demanded for the Kingdom of Bohemia the institution of separate national cantons to which should be transferred practically all the powers of the organs of the Provinces, so that the unity of Bohemia and Moravia would for the future have been a mere fiction. In the year 1916, during the Great War, this demand was repeated, and at the same time it was asked that German should be the exclusive internal and external language of the offices in the German cantons, while German should also be the internal official language in the Czech cantons which for external purposes were to employ both German and Czech.

On the whole it may be said that these attempts and programmes met with no practical success. Not even in the Great War when Vienna went very

far in meeting the German wishes was any more success achieved in realizing these attempts than a demarcation, made towards the end of 1918, of the North-eastern administrative districts on a lingual basis, and even that was never carried into effect. The suggestive force of the natural unity of the country and the fact that the two nations were mutually fused proved so strong that the responsible authorities in the face of their own wishes and despite their antipathy to the Czech standpoint, succumbed to it up to the last and at a moment highly unfavourable to the unity of the country. From this it is possible to draw only one conclusion: a division of the Czech lands according to nationality boundaries even if only for the purpose of forming administrative areas within the same State always proved unnatural not so much from the angle of the Czechoslovak national interests as in the main from the standpoint of efficient administration. Not even the German Governments in Vienna could accept such division since they had of necessity to regard it as senseless and impossible. Only the extreme nationalist German elements, in so far as they continued in opposition and carried no responsibility for political leadership, encouraged these endeavours, inspired as they were by doctrinaire principles and theories remote from practical affairs and by considerations which overlooked all the tradition of the past and all contemporary experience.

V.

CRITICISM OF NATIONALITY CONDITIONS IN CZECHOSLOVAKIA AND PROPOSALS FOR REFORM

The attitude of the Germans in the newly established State after the War to the Czechoslovak system of treatment of the nationalities may be divided into three stages.

The *first* stage was that in which the struggle was directed against the State itself, against its historical frontiers that enclosed also districts predominantly or wholly German in character which had for a thousand years been part and parcel of the Sudete lands. The *second* stage was when German policy accepted the new State but rejected its constitutional order. The *third* stage signifies a struggle for the realisation of certain postulates put forward from the angle of nationality within the framework of the existing Constitution.

In point of time the *first* stage lasted from the moment of the collapse of the Monarchy and the rise of the new State, that is, from the Autumn

of 1918 to about September of the year 1919. Its special characteristic feature was the fact that the Sudete Germans presented a united political front from the extreme Right to the extreme Left. *)

The origin of the post-War programme of Sudete-German policy may be seen in the resolution passed by the members of the Austro-German Social-Democratic Party in the Sudete territories on the 4th of October 1918. This resolution recognized, it is true, the right of the Slavonic nations in the Monarchy to form national States of their own but only upon the territories in which they constituted the majority. At the same time the resolution expressed the demand that all the German territories of Austria should be united in a single German-Austrian State that should adjust its relations to the other Austrian nationalities and to the German Empire according to its own inter-

*) In particular the Sudete-German Marxist Left took part in the then united front, indeed, at the outset it took the lead. It is well to remember this when it is to-day asserted in German nationalist circles that this Social-Democratic Party has no national traditions, that it does not pertain to the German national community, that it does not represent it to the extent to which it secured the votes and the confidence of the German public at the elections, and that therefore its present positive attitude towards the State, towards the Constitution and towards the regime—the position to which it has evolved through the experiences of twenty years of work in the Republic—has no significance or documentary character whatsoever for the standpoint of the Sudete Germans towards the State.

ests. A few days later the representatives of the German bourgeois parties adhered to the principles of that resolution, and so this programme—initiated by the then Austrian Marxists—became the nucleus, as it were, of the nationality programme with which the Austrian Germans—and the German politicians in the Sudete areas in harmony with them—entered upon the unsettled period of revolution.

In response to the Manifesto of the Emperor Charles of 16th October 1918 which recommended the formation of national councils from the ranks of the deputies of each of the nationalities of the non-Hungarian part of the Monarchy, the German deputies of the Vienna Parliament constituted such a national council. This council at a meeting held on the 21st October 1918 adopted a programme which was a development of the resolution referred to above. Their resolution once again emphasized the fact that the Cisleithanian Germans claimed to form a German-Austrian State of all the Cisleithanian territories peopled by a German element. It was expressly stressed that this demand applied to the relative areas of the Sudete lands.

German politicians from the Sudete lands took part in these acts, in the resolution of 4th October and the decisions of the interim National Assembly of the 21st October 1918. When the collapse of Austria came on the 28th of October and the

Czechoslovak State was proclaimed at Prague these politicians deemed it advisable to commence an action of their own within the scope of the German-Austrian action as a whole, and they constituted provisional committees specially for the German part of Bohemia, separately for the North of Moravia and Silesia, for South Moravia and for South Bohemia. (The very fact that it was necessary to organize so many revolutionary committees for the German areas of the Sudete lands shows how split up is the territory inhabited by the Germans of Czechoslovakia.) These revolutionary committees of course never exercised the functions of State authority over the German portions of the Sudete lands. When the Emperor Charles abdicated on the 11th of November the provisional German-Austrian National Assembly promulgated a law dated 12th November 1918 in which German-Austria—inclusive of its Sudete portions—was proclaimed part and parcel of the German Republic.

An interesting feature of this decision of the German-Austrian National Assembly is that it went on to make the further demand that the industrial areas of North-east Moravia and East Silesia should be made into a neutral and united economic area in the administration of which German-Austria, Czechoslovakia and Poland should participate in equal measure.

The territorial programme thus put forward be-

came, as regards the adjustment of the frontier with Czechoslovakia, the programme of the German-Austrian delegation at the Peace Conference. In the name of this programme the Austrian delegation demanded of the Conference that the areas in the Sudete lands settled by Germans should be evacuated by the Czechoslovak troops and the Czechoslovak authorities—a demand that the Allied Governments rejected. Against the peace terms submitted by the Allied Governments to German Austria on the 7th of May the German-Austrian peace delegation, who had a special commission for the question of the Sudete Germans, elaborated the Note of 15th June concerning “Deutschböhmen”, “Sudetenland”, and the neutralisation of the Ostrava coalfield. When this memorandum in its turn met with no success, the German-Austrian delegation in their counter-proposals to the peace conditions demanded that by an international treaty at least—in form analogous to the existing treaty for the protection of minorities—the Czechoslovak Government should be bound to establish within the State a cantonal system according to nationalities, that is, a sort of territorial autonomy. This proposal, too, met with no success.

When all the attempts to sever the German-peopled areas from the Czechoslovak State failed—partly because of opposition at the Peace Conference and partly because of the lack of interest shown by the German population of the Sudete

areas themselves—it became essential to liquidate the entire emigré movement abroad. This was accomplished on the 24th of September 1919 when the German-Austrian Cabinet Council passed a measure by which the provincial governments for Deutschböhmen and Sudetenland, the Bezirks-hauptmannschaften (district administrations) for German South Moravia and all the other offices and organs established by the German-Austrian Republic for the territories of the present Czechoslovak State were abolished and these territories legally assigned to the Czechoslovak Republic. The question of the Sudete Germans thus became a wholly internal question of the Czechoslovak State. This was also the end of the first phase of the German opposition to the Czechoslovak national political platform—opposition directed on revolutionary lines and from outside against the State itself.

The *second* stage extended from the Autumn of 1919 to about 1925. It is impossible to draw a distinct line of demarcation since the change in the orientation of German policy was gradual, and different groups went through the transformation at different times. The stage came definitively to a close in the year 1926 when a substantial proportion of the German political representatives decided to give their support to the Government without any change being made in constitutional conditions, thus tacitly recognizing not only the State

but its existing Constitution. Only in the early portion of this second stage had German policy the character of a struggle against the Constitution. Its aggressive character soon died away, and what remained was rather in the nature of a passive resistance against the Constitution.

As soon as the failure of the movement for an international solution of the Sudete-German question became apparent, the German politicians in Czechoslovakia did not wait for the formal liquidation of the emigré policy but before that liquidation occurred took steps to elaborate a new programme for the policy of the Germans in the Czechoslovak State, this time an internal policy. An important feature of these endeavours is to be seen in the fact that the German Social-Democrats now followed paths of their own as distinct from those of the German bourgeois parties.

The politicians of the German bourgeois parties commenced as early as June 1919 preparations for the establishment of a so-called "working bloc" which was to secure unity of political action on the part of all the German parties with the exception of the Social-Democrats in all matters touching the rights of the Germans in Czechoslovakia to self-determination as well as all the national and political questions of the day. This bloc was also to elaborate a joint programme of all these parties centering round the position of the German nationality in the Czechoslovak Republic. The organ-

isation of this working bloc was intended to maintain a sort of continuity with the revolutionary movement of the Germans in October 1918 to the extent that special territorial areas were to be delimited for "Deutschböhmen", "Sudetenland", "Südmähren" and "Südböhmen", only that all these branches of the working bloc were to be subordinated on federal lines to a central committee in Prague. The draft of the political programme for this working bloc was drawn up by Dr. Spiegel, Professor of Constitutional Law at the German University in Prague, and the motives underlying it as well as the individual articles of the programme are very significant of the spirit which at that time prevailed in German political circles. It is not, for example, without interest that in the preamble to that programme the author had to take a stand against the idea which—as he himself states—was widely spread among the Germans that the Czech-German problem had been definitively settled by the incorporation of the Sudete Germans in the Czechoslovak State. From this reference it is clear that the then leaders of German policy were not sure of their public, for they had a lively fear that their efforts to place the national question in the forefront of all the political aspirations of the Germans in Czechoslovakia would not be adequately appreciated by the German masses.

The actual programme of the draft in question begins by rejecting all conceptions that the nationality question is a question of the equality of the members of the minorities in Czechoslovakia as individuals. The programme of the movement was the attainment of collective equality for the Germans as a nation, as an entity. In this connection the programme regards it as an inequality that the new State should bear the name of Czechoslovakia and suggests a change to the name of "Grossböhmen" (Greater Bohemia). In harmony therewith it declares that all the State emblems should be altered. As regards the internal organisation of the State the programme demands on the one hand autonomy for the Germans within the State and on the other hand their complete equality as regards the administration of affairs pertaining to the State as a whole. According to the programme autonomy is to be understood as territorial autonomy. The existing parliament (the National Assembly) is to be replaced by a parliament in which the German members are to form a special curia. The curia is to be constituted on a personal basis, that is to say, that representatives of the Czech minorities in the German autonomous areas are not to be members of it, but that on the other hand German deputies from areas predominantly non-German shall have the right of membership. The remaining members of parliament would form the Czech or non-German section of the chamber.

In questions of national importance parliament could only pass measures if a majority of the German curia supported them. The election of the President of the Republic is to take place in such a manner that each curia shall vote separately and the candidate declared elected who secures an absolute majority in each curia. Only if this method of election proves unsuccessful are all members of parliament to be summoned and the candidate elected who secures a four-fifths majority of the whole parliament.

In like manner the Government is also to be chosen from the ranks of parliament on the basis of proportionality of the nationalities, care being taken at the same time that Czechs and Germans shall as far as possible alternate in the individual portfolios. The members of the Government are to be responsible not only to the chamber but also to their national curia.

For territorial autonomy the areas of the German districts in Bohemia, in Moravia-Silesia, and in Slovakia respectively are to be taken as basis. All these areas together are for certain matters to form a special autonomous entity "Grossdeutsch-böhmen" (Greater German-Bohemia). In each province the German part is to have its own provincial diet to exercise legislative and supervisory power over the administration there. The relation between the State legislature and the provincial

diets is to be such that the State legislature shall confine itself to matters affecting the integrity of the State, recognized as such by both nationalities, to matters of national defence and foreign policy, and to civil and criminal law and procedure. Matters of provincial legislation are to be in the hands of a provincial government and the provincial administrative offices who will also, as far as possible, carry out the State laws, so that the State administration will confine itself to central, all-State affairs.

Only as a supplement to this territorial autonomy would there be associated with it a personal autonomy of nationality character which the author of the programme understands in the sense that the central offices of State and the courts be also divided into sections according to nationality, and that the individual cases be allocated to these sections according to their national character.

The State Budget is to be divided into a joint section and into German and Czech (or non-German) sections. The armed forces are likewise to be divided into formations on the basis of nationality, and each formation must be stationed on the territory of its nationality. In the case of declaration of war and of conclusion of peace parliament is to vote according to curias. The country's laws are to be promulgated in both languages and both texts are to be deemed authentic.

To see to the observance of the principles of this national settlement the programme proposes the setting up of a special nationality court to which the Germans in Czechoslovakia could bring their complaints as a party represented by a special "national procurator", a sort of solicitor-general.

The German Social-Democrats at their Congress held on the 1st September 1919 adopted a nationality programme of their own which—though not so detailed—fell little short of the bourgeois programme in the national radicalism of its individual articles.

It demanded that the country should be divided up into nationality districts which should be administered by freely elected corporations. Each region and district should elect its administrative heads and its judges and should determine upon the language in which the administration, the courts and teaching in the schools was to be conducted. In regions, districts and parishes where the population was of largely racially mixed character these corporations were to be divided into sections for the different nationalities. All the regions and districts of like nationality as well as the sections of the same nationality in the racially mixed regions and districts were together to constitute an all-State corporation, represented by a national council directly elected by the nationality in question. This national council was to elect

from its own ranks a national government, and both the council and the Government were to possess legislative and administrative power in matters of education and culture, in the administration of social welfare enterprises, and in the expropriation of the large landed estates within the area peopled by the relative nationality.

The parliament and Government for the whole State would have jurisdiction only in such matters as, according to their character, did not pertain to the national councils and governments.

Such was the preparation made by the Germans by way of programme for their entry upon a parliamentary course. It is obvious that by these proposals the German political camp disqualified itself for participation in the work of drafting the Constitution, for at a time when post-War rehabilitation of economic and social conditions demanded energetic steps on the part of the State authority it was an utter impossibility thus to disintegrate the State. It is not therefore to be wondered at that the Czechoslovaks ceased to reckon on the participation of the Germans, and elaborated the Constitution themselves. To what extent they were able to rise above a narrow-minded national standpoint may be seen from what has been said in Chapter III. It only remains to add that in 1935 Dr. Peters, one of the deputies of the Sudete German Party, expressed considerable ap-

preciation of the Constitution in this connection.*)

The Germans practically accepted the new Constitution, it is true, when their parties took part in the first general parliamentary elections in May 1920, but on doing so they laid down their reservations against the Constitution in pronouncements which were a protest rather than any programme of reform, and those pronouncements were at the same time proofs of how the lack of unity in the line of policy pursued by the Germans continued at that time. The German bourgeois parties made a reservation in which they declared they did not acknowledge the legislature so far passed by the Czechoslovaks nor did they recognize the Constitution. A milder reservation was made by the German Social-Democrats, and the German National-Socialists—then an insignificant group in the Czechoslovak Parliament (in Germany the party of that name did not as yet exist)—likewise made reservations separately. All these declarations, of course, were at one in *de facto* re-

*) In an article entitled "Nationalstaat und Verfassung" published in *Volk und Führung* (I, 5) he condemns the policy of Dr. Lodgmann in the year 1920, and says that the Germans should not have rejected the Constitution as a whole, that they should have adopted a positive attitude towards it, since the Constitution in no way introduces the conception of a national State, and the Czechoslovak nation in its relation to the State—except in the introduction to the Constitution, which according to Peters has no constitutional significance, and in the case of the language law—rests on the principle of equality.

cognition of the State but laid down such conditions for a formal recognition of it that it would have been difficult to imagine any Government fulfilling them in order to gain over parties and groups that had hitherto done nothing to show their acceptance of the State—who had on the contrary availed themselves of every opportunity of showing they were only of necessity and compulsion for it.

It does not fall within the scope of this work to depict the trend of political events in the sphere of Czechoslovak parliamentary life, the organisation of conditions in the representation of the Germans there, and the gradual change in their orientation. We desire here merely to note the outstanding contributions to a criticism and revision of the constitutional bases of nationality conditions, and in this connection it is essential to state that—though there was much dissatisfaction and many protests—there was never any proposal put forward in binding and definite form by the Germans for a reform of the Constitution.

We therefore come to the *third* stage when the Sudete Germans had already accepted the constitutional platform and its national-political principles as a settled matter, and now directed their efforts within the scope of the Constitution. At this time proposals were put forward from the German side for a species of national autonomy which should not be in conflict with the Consti-

tution. Such, in particular, was the proposal made by Dr. Spina in a speech which he delivered in the Chamber of Deputies on the 2nd of October 1925 in which he said:

“The German minority in the Czechoslovak Republic and all the other minorities should administer the whole education system in all its stages within the scope of the general regulations by organs which they themselves would choose, but if this should not be for constitutional reasons possible then by factors which the State would determine, but only if they are members of the nation in question.”

“Administration” is to be understood as decision in the case of each minority upon all matters concerning education and persons engaged therein, as well as the right to establish or dissolve educational institutions. Supervision of the educational system of a minority, whether public or private, should be exclusively in the hands of school authorities of the same language in the parish, the district and the Province. That should apply also to private instruction at home. The school areas should be so delimited that for the children of a national minority the nearest school employing the same language should always in principle be fixed upon as the school they are to attend. In the supreme educational office special sections should be set up for each nationality for the administration of the whole educational system of

that nationality, and the officials in that office should be members of the relative minority. Such section would be the highest instance for all school and popular education matters relating to the particular minority. The estimates for education in Czechoslovakia should be shown separately for each nationality. The share falling to each minority should correspond to the relative proportion that the minority forms of the entire population of the country or in the relative regional corporation, expressed percentually."

In the Autumn of the same year the German Social-Democrats submitted an extensive proposal in which they asked the Government to draft a Bill for national autonomy in education. For this Bill the proposal laid down a number of principles, in particular:

that the individual nationalities in the Czechoslovak Republic should be declared corporations capable of rights, and

that national registers should form the basis for membership of any particular minority. Every citizen must have his name inscribed in the register of the nationality he himself should choose. On the basis of the national register the members of each nationality should constitute themselves into autonomous educational corporations and subordinate bodies (for districts, counties or Provinces) whose duty it would be to look after the

schools and educational affairs of the particular nationality.

The functions of the schools councils, in so far as concerns the educational system of the nationality for which the councils were established, would be the same as laid down by the existing educational laws.

The all-State School Council would take over the functions of the Ministry of Education in so far as concerns the nationality to which the Council applies. All the higher schools of the particular nationality would be under this council.

State supervision over all schools would continue to be exercised by the Ministry of Education, and autonomous local, district and provincial school councils would be set up as lower instances.

Apart from various proclamations, too, indefinite and incompetent to be regarded as serious political proposals, such as the claims put forward at the Congress of the German National-Socialist Party at Frývaldov on the 18th October 1930 (a claim was made for territorial autonomy, and within its scope a Sudete German diet, provincial governor, a Sudete German capital town, and exclusively defined territory) political development produced no further suggestions for reform from the ranks of the Czechoslovak Germans. Their demands were now either of purely executive character (relating to personnel, contracts, establishment of schools and institutes, new regulations

relating to language, etc.) or again based on nebulous mottos ("nationality State" in place of "national State", "equality of rights", "national autonomy" and the like).

Such was still the state of affairs when the Sudete German Party was formed in 1933, when that Party began its campaign at the 1935 elections, and when, after its success at the polls, it entered Parliament. Up till then only general catchwords were to be read in their pronouncements. Even in the Party's manifesto after the elections its Head demanded merely that "democratic principles must be so applied in the new Parliament that the whole Chamber—irrespective of which party is in opposition or in the Government—shall be called upon to share in the work and decisions"; and in a letter to the President of the Republic Herr Henlein said that he regarded the outcome of the elections as "a task which he would endeavour to carry out—despite all the suspicions cast by opponents—exclusively on the basis of the Constitution of our State". It was not until the Spring of 1937 after the then German activist parties had negotiated the agreement of 18th February with the Government for supplementing the existing concessions to the minorities that the Sudete German Party came forward with 6 proposals which they submitted in the form of Bills to the Chamber of Deputies.

What were the contents of this agreement, and

what are those of the proposals of the Henlein Party? The Agreement of 18th February provided, among other things, that

“in an endeavour to make a permanent contribution to mutual understanding in nationality relations within the Republic and to eliminate all that is calculated to estrange from one another the people of this State at the crossroads of racial interests in Central Europe, the Czechoslovak Government has examined the present state of minority policy in Czechoslovakia, and following the tradition of Czech-German minority policy has laid down further directives in this connection. The Government is devoting special attention and care to the economic situation of the areas affected by the world crisis in several sectors of industry. It happens that these are areas inhabited for the most part by our fellow-citizens whose mother tongue is German. The Government is investing in public works and buildings in all parts of the State sums in due proportion to the needs of the particular areas and will see to it that everywhere—including thus the areas with a German population—local enterprise and local workers shall have first consideration. The central departments that allocate contracts are enjoined to exercise strict supervision over all the organs subordinate to them, in order that, among other things, this principle of economic justice shall be observed to the full. The Government calls the attention of

all organs particularly to personal responsibility for the fulfilment of these instructions. In carrying out its measures of social welfare and of public health service the Government will pay due regard not only to the number of inhabitants but also to the degree of unemployment in the individual areas. In the sphere of social and health service for the young the Government will see to it that members of the particular nationality concerned shall be entrusted with child relief, and will do its utmost to ensure that the institution of child relief shall be placed on a sound basis and further expanded. In the matter of the acceptance of candidates for the State (civil) services the Constitutional Charter has laid down the guiding principles. In addition to those constitutional principles the Government acknowledges the equally permanent validity of another principle, namely, the principle that unconditional loyalty to the State is a natural and primary condition for the bestowal of rights upon racial minorities. The Government can, without bias, say that the moral force of Czechoslovak citizenship is increasingly proving its efficacy in promoting collaboration among the nationalities. This fact and the steadily growing knowledge of the official language enables the Government to take a further step in accepting members of the national minorities for the State services, and to pay ever-increasing regard not only to general and regional interests and quali-

fications but also to the interests of the minorities so as to ensure them a just proportion of the posts in question.

The agreement goes on to provide for further alleviations in the interpretation of the language law and in educational matters.

The proposals of the Sudete German Party incorporated in the 6 Bills presented to Parliament do not constitute together a systematic whole, for only three of them are closely connected with one another. These are: the Bill concerning the nationality of the subjects of the State and the establishment of nationality registers;*) Bill for the protection of nationality rights by the institution of public corporations**) law for the protection of nationality, and Bill to Amend the Act of Parliament of 9th March 1920 (No. 162 in the Collection of Laws and Decrees of that year) concerning the Constitutional Court.***)

In addition to these three connected measures aiming therefore at the organisation of National corporations the Sudete German Party has submitted a Bill with penal provisions for the protection of nationality, that is, for protection against any species of denationalisation under §§ 106, 126, 128, 130, 131 and 134 of the Charter of the Constitution, the provisions of which are designed to

*) Chamber of Deputies draft No. 893.

**) Chamber of Deputies draft No. 897.

***) Chamber of Deputies draft No. 895.

prevent any kind of denationalisation,*) and finally two Bills concerning guarantees for the legality of the action of public officials in the sphere of their official functions.**)

The contents of these proposals may be summarised as follows.

I. Organisation of Nationality Corporations.

This is the scope of the first three above-mentioned Bills. According to them all nationalities in the Republic—the Czechoslovaks equally with the minority nationalities—shall constitute public autonomous corporations.

Every citizen of the Czechoslovak Republic who has attained the age of 18 shall have the right and the duty of declaring his adherence to the nation to which he has belonged since his birth by entry in the appropriate register. Nationality cannot be chosen freely. A citizen can only choose a nationality other than the one to which he belongs by birth if he does not speak his mother tongue either in his family or household and if he speaks perfectly the language of the nationality to which he proposes to adhere. Jews, however, may always declare for Jewish nationality. Another nationality than the one in which he was born can be

*) Chamber of Deputies draft No. 894.

***) Chamber of Deputies draft No. 892 and No. 896.

chosen by a citizen under the above conditions only when he enters his name in the register, that is, on the attainment of this eighteenth year. After entry in the nationality register the declaration of nationality is irrevocable.

The jurisdiction of the national corporations in the proposed law is expressed in terms so wide that it is also impossible to imagine any matter of economic, cultural or social character dealt with to-day in Czechoslovakia by the State authorities that would not, were the measure passed, fall within the competence of the corporations that would also have the right to propose to the Constitutional Court that it should annul measures passed by Parliament on the ground of their being unconstitutional.

The organisation of the nationality corporations is proposed as follows:

The main organs of the nationality corporations are: a governing body or presidium is composed of members of the Chamber of Deputies and of the Senate who have signified their adherence to the particular nationality group. The presidium elects speaker, it is true, but it may also decide simply upon a more effective method of designating him than by election. His responsibility is subject to a vote of no confidence. The presidium may also appropriately supplement its ranks by co-option.

II. *Penal Measures in Defence of Nationality.*

We have already shown that the Constitution prohibits forcible denationalisation, and that it provides for sanctions in such cases. We have also shown that several such offences are punished under the Czechoslovak criminal code. One of the Sudete German Party's Bills introduces other such offences. Some of them are a suitable application of the same idea (forcing persons to transfer from one national corporation to the analogous corporation of another nationality; forcing persons to send their children to a school of another nationality, etc.).

In addition to this the Bill introduces the new offence of infringing upon the national possessions or workers' posts. This offence is committed by anyone who by the offer of disproportionate pay or by threats attempts to influence another:

1. to transfers his rights of ownership of real property to a person of another nationality or to an association of such persons, or to grant the leasehold rights, or give the use of the property to such persons or associations of persons,

2. to transfer his trade or other enterprise or share therein to a person of another nationality or association of such persons. It is a condition that the real property, trade or other enterprise should have belonged for at least the past 30 years to the same national possessions.

III. *Guarantees for the Legality of the Action of Public Officers.*

This is now proposed by the two remaining Bills of the Sudete German Party. These Bills, however, are not the first proposal to this end. The idea was first put forward by politicians of the democratic school. Originally the Commission for revision of the general Civil Code had the intention of including such a provision in the new Code. Later this idea was abandoned, and a special solution considered. In 1930 a serious attempt at the issue of a law carrying out the provisions of the constitution was made by the later German Liberal deputy, Dr. Kafka, and his colleagues in the Chamber of Deputies. The main principles of his Bill were: the right to a claim arises if a State organ violates its legal duty. Such violation may be either by commission or by omission if a definite term is fixed for the carrying out of the duty. A primary condition was that the damage could not be remedied. The claim for compensation was directed solely against the State, but if the person entrusted with the State function had caused the damage intentionally or through gross negligence the State had a claim in its turn against that person.

Nothing came of these proposals, since the rapid onset of the economic crisis, resulting in a strained situation for the State finances, did not

permit of this very costly institution being actually established.

The Bill now submitted by the Sudete German Party merely follows the older proposals.

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As will be seen from what has been already said, the criticisms advanced by the German parties against the existing order in Czechoslovakia as far as the nationalities are concerned since those parties abandoned their anti-State revisionism, have been directed mainly towards bringing about national self-government, now observing at the same time the limits placed upon such endeavours by the Constitution of the Republic, now disregarding them and thus reckoning on a change in the Constitution—which especially concerns also the greater part of the proposals of Sudete German Party—now demanding personal self-government, now territorial exclusive autonomic corporations.

It remains to be added that the responsible factors in Czechoslovakia are by no means absolutely opposed to the idea of self-government in cultural matters. President *Masaryk* in his *New Europe* (Edition of 1920, p. 95) states that honestly carried out self-government is a suitable measure for racial minorities. In his New Year's Message in 1922 he stated of course that territorial national autonomy could not and would not be considered,

that the unsuitable distribution of the minorities precluded it.

President *Beneš* is in favour of any form of reasonable decentralisation, he is for regionalism that can meet the needs of the nationalities, but he is opposed to introducing a one-sided doctrine which would direct all life in the State from national angle only (Reichenberg 1936).

In the year 1925 during the Budget debate for the coming year in the Chamber of Deputies the general rapporteur, Dr. Srdínko, expressly stated that discussion on the question of autonomy for the nationalities in the matter of the schools was possible. Dr. *Hodža*, too, when Minister of Education, more than once expressed himself in favour of the principle of autonomy in the sphere of education.

The nearest approach to the idea of national autonomy on the part of responsible factors—in the sphere of education of course—was the Bill concerning school administration which was drafted and submitted to the public in 1932 by the then Minister of Education *Dr. Dérer* (published by the State Printing Office). This Bill, it is true, did not up till now come before Parliament, but its importance lies in the fact that it presented a very concrete proposal in this connection. According to its terms Provincial school councils were to be set up—also in Slovakia and Carpathian Ruthenia—divided into nationality sections. For

each nationality there was to be set up a section if at least one representative of the teachers and two representatives of the public were elected to the school council for the particular nationality. If any nationality should possess at least 100 teachers in a Province and should fail to be represented according to mechanical proportion on the distribution of the seats it was to be allocated a special supernumerary representative from the ranks of the teachers with a vote in council. Under the existing conditions there would, according to this plan, have been set up in Bohemia and in Moravia-Silesia a Czech and German section, in Slovakia a Slovak and Magyar section, and in Carpathian Ruthenia a Ruthenian and Magyar section respectively. In addition to that the school council in Moravia-Silesia would include a Pole as supernumerary member, the council in Slovakia a German as such, and that in Carpathian Ruthenia a Czech. Each of the school councils of the Provinces would have had a chairman and as many vice-chairmen as there were nationality sections. The school councils of the Provinces, according to the plan, would be composed of representatives of the teachers (in each case 12, except in Carpathian Ruthenia where the number is 9) which the Ministry of Education would distribute among the individual nationalities according to their proportion of the population, of representatives of the public (twice as many as those of the teachers)

elected by the councils of the Provinces, likewise proportionally, and of experts not designated according to nationality who sit in all sections. The district school councils would be divided up on a nationality basis if the district contained at least 30% of a second nationality and at least 10 of their public elementary and upper-elementary schools. The parish school councils were likewise to be divided into nationality sections if within the educational area there existed a public elementary school in which the language of a second nationality was the language of instruction. The Bill carried out the principle that only a member of the particular nationality (except in the case of the experts) could be a member of a national section or national school council.

VI. CONCLUSIONS

In the preceding chapters it has been shown how entirely different were the nationality conditions in the former Habsburg Monarchy from those in Czechoslovakia. From this the conclusion issues that for an adjustment of Czechoslovakia's nationality relations, for her system of nationality law and order it is not possible just to take over the legal institutions and (since these were very rare in former Austria-Hungary) the programmes of reform put forward in the old Monarchy.

We have shown further what is the position of the Germans in the Czechoslovak State: the Sudete Germans possess in the political, cultural and economic spheres a just proportion in all positions with the sole exception of the bureaucratic administrative apparatus where they attain between one-third and two-thirds of the due proportion. Precisely of late, however, this shortcoming the Government endeavours to make good. We have demonstrated that the settlement and intermixed character of the two nationalities (Czechoslovaks

and Germans) in the Sudete areas is such that no kind of horizontal, that is, territorial division of the two is possible, and as the most striking proof of this we were able to show that even those of the pre-War and Wartime Austrian Governments that were most hostile to the Czechoslovak nation never ventured upon such a territorial division of the Sudete area, realizing as they did the impossibility and senselessness of such a step.

We have seen, further, that the Czechoslovak order of things in respect of the nationalities rests—but for the exception issuing from the position of the Czechoslovak language as the official language—upon the principle of equality—the equality of course of individuals in their free nationalities. We have seen how the other democratic principles of public order—e. g. equal and secret franchise with proportional representation, liberty of the person and of property, the right of assembly and association, freedom of speech and the press and of the formation of political parties—all favour the free development of the nationalities. We have shown that this juridical order has already given the nationalities substantial guarantees of protection against pressure, against forcible denationalisation; that in it we find the elements of reasonable cultural national self-government, and that the further extension of such self-government is possible within the scope of the Constitution. We have recalled the endeavours put forward so

far not only from the German but also from the Czechoslovak side towards such further development; and it will suffice if we add that some, if not all, of the German suggestions met the condition of harmony with the existing Constitution—especially the fact that a demand for cultural autonomy or a demand for its further expansion need not be in conflict with the Constitution if it be put forward as an administrative and effective reform of the cultural organisation. Put forward thus, such a demand need not be in conflict with the individual character of nationality liberties as recognized by the Constitution, for even the primary conditions for association for social, class, religious and other purposes are not in conflict with those conceptions of civic rights embodied in the Czechoslovak Constitution. They are proposals of course which—as we have seen in the case of some of them—would like to make of nationality a collective entity either territorial or personal which would constitute a kind of “State within the State”, in which the individuality of the citizen and his direct relationship to the State authority would disappear; which in the total of social relationships would directly take the place of the State power. Such proposals are, of course, in grave conflict with the Constitution.

From what we have stated in the preceding chapters, and what we have now summed up it follows:

1. That the nationality struggle in Czechoslovakia, and in particular that with the Sudete Germans is not, nor can be, a struggle for existence, nor even a struggle for new cultural, economic and political positions for—as we have seen—the German nationality has almost its full share in those positions, while what is still lacking in that respect is not in any way the subject of dispute, but only considerations centering round the methods to be used (for example, whether the number of State employees which the Germans still lack for the attainment of their due proportion are to be given posts in German districts; whether simultaneously with the principle of proportionality in the State services there is also to be observed that principle in the sphere of local government, if, for example in German townships where the population is Czechoslovak to the extent of 20% to 30% there are not local government employees of Czech nationality, and so on).—The struggle is for political influence, for co-determination of the policy of the State, and this influence the Sudete Germans have exercised since the year 1926 when, under the motto of “activism” they entered the ranks of the Government and successfully made their presence felt there. They were assisted in this particularly by the fact that there was no difference of opinion on the question of orientation in foreign policy between the Czechoslovak majority and the German minority. With the approval

of both sides this policy remained loyal to the principle of European solidarity and collective security. It was only when this principle, for reasons lying far outside the sphere of domestic conditions in Czechoslovakia, found itself in a crisis, that the question of the influence of the German minority on the policy of the State as a whole was broached in wholly new fashion. It is certainly sensible and correct even now to look for a trend of foreign policy for the Republic that has nothing to do with the purely national interests of the Czechoslovak majority, a policy determined by the interests of the State as a whole, and especially the function of the Czechoslovak State in international organization. On the other hand, however, it is unthinkable that the purely national interests of the Sudete German minority should play fast and loose with the foreign policy of the entire State. The present stage of the nationality struggle is precisely a struggle to prove whether the Sudete Germans are capable of that understanding.

2. From what we have stated it follows, further, that the nationality policy crisis in Czechoslovakia is also a struggle between two ideologies of nationality. On this point let us say:

The Czechoslovak Republic, and particularly its Western portion, the Sudete lands, is a classic theatre of the nationality problem. Here for nearly a whole century the nationality principle has

played an important role, and it is interesting to note what a difference there is in the conception of this principle, especially between the Czechoslovaks and the Germans.

The nationality principle, as known in the modern political life of Europe and as applied particularly in the far-reaching changes made in Central and Eastern Europe, is closely connected with the universally democratic principle which was introduced to the practical politics of Europe by the English revolution of the seventeenth and the French revolution of the eighteenth century. In the Danubian area this principle did not make its appearance until the year 1848. Democracy meant that in organised public life the individual and peoples ceased to be servile objects and became citizen subjects of the State power. The creative forces abiding in the broad masses of the people were emancipated, and hence ensued an unprecedented economic and cultural expansion. The State accommodated itself to the picture of the average citizen, the man representative of the wide social class. It opened up to him the path to public power by means of an extensive franchise and representative institutions, but it also facilitated his approach to the means of cultural and economic progress. It treated his religious, lingual and nationality opinions and needs with respect. Thus modern nationalism is equally one of the consequences of modern social democratisation,

just as is, for example, the social rise of the Fourth Estate of small farmers, workmen, and small middle class, international integration and ever recurring and increasingly profound attempts to elaborate an inter-State order and world economic system, and just as, for example, is the altered position of women, children and the aged in society and in the family. All these are a logical sequence, and to tear this or that link from the entire chain will sooner or later—but in any case at no distant date—produce grave dislocations and involve grave sacrifices precisely in the cause of popular government. Therefore democratic nationalism is never an end in itself. If in the course of the last 80 years the principle of nationalism has undoubtedly changed the organisation of Europe and if this process still continues to to-day, especially in the world outside Europe, we must nevertheless not forget that it was not solely it which denoted the democratisation of present-day humanity, and that also as a State-creating and State-overthrowing force it did not operate alone but only in connection with the other revolutionary and conservative forces alike. In the Western democracies it was inadequate, and apparently is inadequate for the future, to move frontiers which are determined by traditional co-existence, by the common cultural creative efforts and political history of the various ethnical groups, and will direct itself along the lines of a modest region-

alism. In the German Empire it liquidated the dynastic lords of the land, it overthrew the Austro-Hungarian Monarchy and out of it created a number of new States with strong racial minorities with not quite clearly defined ethnical frontiers, but it merely federalized the Russian Empire. It united practically all the Italians in Europe, especially after the last war. The number of persons living as minorities in countries in which a language other than there is predominantly spoken has been reduced from some 150,000,000 at the commencement of this century to not quite 36,000,000 after the Great War.*) This latter figure is about 11% of the entire population of Europe, so that now nearly 90% of all the inhabitants of Europe live in States pertaining to their own nationality. Such is the present-day outcome of a century of development of the nationality principle. But precisely this remnant, this 11%, shows that it is an impossibility to apply absolutely the principle of nationality in the organisation of States, that alongside that principle there exist not only natural, geographical and geopolitical forces, but also other spiritual and moral forces other than nationalism — forces expressed in religion, the tasks of civilisation, etc.

All this applies to the democratic conception of nationalism. But there is still another conception,

*) Winkler : Statistisches Handbuch der europäischen Nationalitäten.

a conception which to-day manifests itself in very painful fashion. This is the conception of national collectivism. Expressed in the briefest form this conception is not nationalism as the outcome of general democratisation but is isolated from all connection with the democratisation of the peoples of Europe; it is non-democratic, and if need be anti-democratic. It is an end in itself; for it, the nation is not a path to humanity and to universalism but the last and ultimate end. This nationalism subdues everything: of the individual it makes an atom, of matter an object; it strives to accommodate religion, the social structure, the social classes, the State organisation indeed in its titanism it does not halt before geographical bounds and the gulfs of space. According to this doctrine, the German of to-day, even though he be living in Asia or America, has everywhere the duty of loyalty to his national community, his Volksgemeinschaft. Volksgemeinschaft signifies an all-pervading political construction of the nation which accommodates to itself every cultural and economic tradition.

Among the German minority in Czechoslovakia a substantial majority of its political representatives have adopted many elements of this ideology, while Czechoslovak political circles on the other hand adhere to the ideology of democratic nationalism, a nationalism in which it is not the nation but human solidarity which is the ultimate

and supreme stage of organisation. This nationalism regards the nation as a stage on the way to humanity, as Masaryk, and many of the Czechoslovak pioneer thinkers before him, taught. National policy does not dominate or give its own direction to culture but merely seeks to secure the essential conditions for its free growth, and so on.

Collaboration between, and joint establishment of a State by two ideologies that so differ from one another is of course a far more difficult task than where the two parties adhere to the same democratic conception, especially if such collaboration is to evolve within the framework of a Constitution which is democratic in character.

The nationality crisis in Czechoslovakia is thus not a struggle for the existence of the nationality minorities against a nationality majority. It is a crisis represented by the struggle of two ideologies of nationality to put into practice their cooperation within the scope of a democratic Constitution.

3. If the present struggle of the nationalities and of the Sudete Germans in Czechoslovakia in particular is not a struggle for existence—it is, taken as a whole, not even a struggle for new positions—it is rather an effort towards a fresh guarantee of the positions already held. This could be well understood in so far as such an effort were directed to elaborating guarantees in harmony with

the natural nationality conditions and with the needs of the State.

It is, for example, natural and understandable that the Sudete Germans should wish that those of their cultural positions that do not rest on legal bases but only upon actual measures of administration should be confirmed by law and should, from the legal standpoint, be unassailable. But it does not sound very convincing when the Germans contend that for this purpose a nationality should be organised in the State as a collective entity which would arrogate to itself a substantial proportion of the State authority, and into which the citizens would of necessity have to divide themselves not by free choice on the part of the individuals but according to the chance event of their birth. It is comprehensible that a demand should be made to declare as criminal cases of forcible denationalisation that have not yet been declared to be such. But it is not comprehensible that this protection should be incorporated in regulations by which, in a State where the nationalities live so interlaced as it were, change in ownership among the members of various nationalities, even if made without gain, should be punishable. Let us not forget that in Czechoslovakia there are tens of thousands of families whose members are not all of one nationality. If such barriers to economic contacts are to be effected as proposed, it would frequently be impossible for a brother to transfer his pro-

perty to a brother, or a father his property to his son, or for the one to let a house, etc., to the other. Doctrinaire principles may not be carried so far as to destroy the natural requirements of daily life.

Neither in economic, nor in cultural nor in political contacts is the path of separatism—whether personal or territorial separation—a smooth one. Even the official Reich German Stuttgart organ of the “Institut für das Auslandsdeutschtum”—the *Auslandsdeutsche*—recently stated in judging of the effect of a measure so modest on the whole as Estonian autonomy for the nationalities: “Die Entwicklung der Beziehungen zwischen den einzelnen Nationen in den verschiedenen europäischen Ländern zeigt uns ja immer deutlicher, dass die Abkapselung und die Absonderung, wenn sie gewiss auch die Erhaltung der Eigenart in bestimmten Grenzen ermöglicht, auf die Dauer doch sehr grosse Gefahren mit sich bringt. Eine Volksgruppe, die immer stärker in einem Sonderdasein aufzugehen beginnt, wird vom staatsführenden Volk über kurz oder lang doch als Fremdkörper empfunden werden, und von einer solchen Auffassung bis zum Willen der Ausmerzung ist dann der Weg gewöhnlich nicht mehr sehr lang.” (The development of relations between the individual nations in the different European countries shows us with increasing clearness that hermetically sealing and separation, even though they do facilitate the maintenance of the special national characteristics

within certain limits nevertheless in the long run involve very great dangers. A national group that begins to abandon itself with increasing emphasis to a detached existence of its own will in the long run assuredly be regarded by the leading nation in the State as an alien element. From such a conception to a readiness to eliminate such element the way is not then very long.) Here the nail is hit on the head: numerically a minority nationality which shuts itself up within itself becomes a foreign body in the State, and the State, whether it will or not, must rapidly pass as regards it into a relationship of sharp hostility, and the minority finds itself fighting hard for its mere existence.

On the other hand a genuine guarantee of the position of the Germans is provided first and foremost by the general democratic system of the State which ensures the liberty of the subject, his economic and cultural development in very direction, and thus, too, from the nationality angle. It is, of course, true, that in a State in which social policy and economic provision on the part of the public authorities have advanced so far as is the case in all modern democracies—in Czechoslovakia neither more nor less than, for example, in America, now in France, Belgium or in England, etc.—it is true that in such a State the nationality institutions must be elaborated much more intensively than in a classically liberal State. In the liberalistic order, in which the State limits itself merely to

the role of "assistant", where it merely sees to it that the free play of spontaneous economic and social forces which "work of themselves" shall not be marred by any measures of interference—in such a country the adjustment of nationality conditions could be limited merely to certain language regulations in private life and in contacts with the authorities, and to the negative guarantee that nationality differences shall be no drawback to citizens in their business activities or in their approach to the authorities, etc. In such a case nationality policy is frequently conducted along the lines of regional interests (compare, for example, the national function of Bohemian and Hungarian state rights at the middle of the last century). In a social State and one that exercises economic control, new tasks arise in the sphere of nationality rights: the law must ensure the nationalities a share, answering to their numerical strength and to their capacity, in all those matters in which the State intervenes in the newly established economic and social life of the people. If the State nationalizes education and makes the cultural bodies of the population (theatres, libraries, adult education, etc.) into public institutions, the nationalities must share in the allocations of public money for these institutions. If the State becomes undertaker the nationalities must share in the staff that it employs, and due regard can be demanded for the nationalities in the distribution

of the State enterprises. If the State is an abnormally large purchaser and consumer, the nationalities must have their due share of the contracts that are given. If the State undertakes guarantees for private enterprise in times of crisis (unemployment relief, financial rehabilitation of credit institutions, of big industry, etc.) the nationalities can claim their share in these guarantees. At the same time, of course, also a share in the State administration, etc.

This change in State functions is taking place in Czechoslovakia under specific nationality conditions. We have said at the outset that Czechoslovakia—unlike other racially mixed countries, such as Belgium or Switzerland—is the land of classical admixture of nationality. Here the nationality frontier in the course of seven centuries has four times shifted to and from, sometimes even to the extent of tens of kilometres, and at no time, much less to-day, was it ever distinct and clear-cut, for as one passes from Czech villages one comes to German villages mostly through racially-mixed areas, and the German or Czech majority areas are permeated with a sporadic population of the other nationality. In such a State, if it changes from a liberalistic to a social and economic democracy, models from elsewhere cannot be utilized in a new adjustment of nationality conditions. Such a State must evolve new institutions by way of experiment, step by step, proceeding from ex-

perience to experience, guided solely by the principle of justice and decency, but not by any prejudices or finished models.

This is to be emphasized in particular to those who from one side or another declare that it is essential to make a sort of Switzerland out of Czechoslovakia. Czechoslovakia, having created her institutions of nationality rights by means of her own, cannot just simply be remodelled on the Swiss plan, quite apart from the fact that those who proclaim this watchword are not conscious of their own inconsistency. The Swiss equality of rights for the nationalities is of course consistent and complete but it is the equality of individuals; it is the equality of individual citizens in their national and language rights and liberties. There is nothing of national collectivity, nothing of that "national autonomy" for which the nationalist elements in various countries, and particularly in Czechoslovakia, call. The Swiss cantonal system is no territorial autonomy for the nationalities. The Swiss cantons are traditional old historico-political individualities, and precisely the biggest of them are racially mixed. They are therefore not created on nationality lines. Besides that, the Swiss system presupposes a political ideology wholly remote from that of racial nationalism. If the Czechoslovak Republic is to be made into a Switzerland, the Sudete Germans would also have to turn themselves into Swiss, that is to say,

they would have to abandon their national community (Volksgemeinschaft) with the rest of the German world, just as the Swiss Germans have done. But it is exactly against this that the Sudete Germans write most decidedly in their press (for example, the organ of the Sudete German Party, the *Volk und Führung*) which of course demands the Swiss system for Czechoslovakia. If the Sudete Germans do not want to take the Swiss Germans as their model no one can compel them to do so, but they will in that case have no right to appeal to the "Swiss model".

German ideologists of the separatist conception of national autonomy are wont to say that Czechoslovakia was up to now a national State but that it must for the future be a nationality State. The proposals of the Sudete German Party are frequently justified on that ground. Now all these things are mere words, in politics all the more dangerous as they are multi-meaning.

If anyone repeats them to us let us first ask him if, in his formulation of what is a nationality State, he is thinking of the sociological structure or juridical character, or of the rise or political aim of the State.

In answer to the question whether, from the sociological angle, Czechoslovakia is a national or a nationality State we can say: it is a State which has a two-thirds national majority, and to the extent of one-third consists of various minor-

ities. For those who regard as a national State only one in which the predominant nationality represents 100 per cent of the population Czechoslovakia is of course not a national State. But is such a national State to be found anywhere in the world? Those who regard as a national State every country in which one nation possesses the absolute majority must call Czechoslovakia strongly national State, for there is a clear national majority here. We do not call it either a national or nationality State; we say concretely and clearly what proportion each nationality represents of the whole population.

From the juridical angle, too, Czechoslovakia pertains equally to both types of States. Its legal system includes institutions in which the Czechoslovak nation possesses the predominance usually associated with the character of national States; the State official language is the Czechoslovak language while the minority languages only possess protective rights vis-à-vis the authorities. This measure of protection is extensive enough but it is enough to differentiate the position from that of the predominant language. There are, on the other hand, other rights, those, for example, in the sphere of education, the right to economic activities, share in the public administration, etc. in respect of which the principle of absolute equality obtains, that is, a principle which is a mark of the nationality State.

History shows the Czechoslovak nation as in general applying itself with far more energy in the territory of this State than the other nationalities—and this was particularly the case on the rise of the Republic two decades ago. The Sudete Germans, too, have as history tells us frequently been very active in this element, and if their representatives did not stand like benignant Fates beside the cradle of the Republic they nevertheless began, after a short period of intransigence, once again to labour for its prosperity, and they since spent a longer period working for it than they previously spent in opposition to it.

From the standpoint of political aim the answer to the question whether the State is a national or nationality State may greatly vary. If the circumstance that this or that nation is exclusively domiciled therein has a decisive influence upon the aim of the State and its character, or if it is a matter only of spurs of a nationality running into the country from outside, then of course the Czechoslovak nation impresses its character much more completely on Czechoslovakia as being its sole home than do the Germans who here represent only about 4 per cent of the whole German nation. The aim of the State, however, is not exhausted merely by service to the purely national needs of this or that group, and Czechoslovakia, too, as she has so shown precisely at this period so critical for democracy, is doing not only that service but

also performing a function that benefits all the nationality groups alike, that is, the function of preserving peace at one of the most important points in the whole world. In addition to that Czechoslovakia is a bridge for cultural exchanges between the Germanic and Slavonic worlds such as is scarcely to be found elsewhere.

From all this it is obvious that the answer to the question: national or nationality State?—is not so simple as the nationality radicals would make it.

In a word: If the nationality struggle in Czechoslovakia to-day is substantially a struggle not for the positions of the nationality minorities but for influence in and joint government of the State we may conclude with what has long been the lesson of the history of all countries and all ages: all—both those who govern and those who are governed—can rightly ask for justice and proportion. But only those can demand influence and co-government who place themselves at the same time at the service of the State. That, in the long run, applies to the crisis of the Sudete Germans in the Czechoslovak Republic.