

HERITAGE

LINKING THE PAST WITH THE PRESENT — FOR THE FUTURE

DECEMBER 1992 - FEBRUARY 1993

No. 66

Quiaque degen hec longi... *[The rest of the text is a dense block of Latin script, likely a historical document or legal text, which is partially illegible due to the image quality.]*



ORIGINS OF OUR COMMON LAW



COVER

- 1 A charter of King Edward 1, 1280-1, granting land in Boreham and Little Waltham to Waltham Holy Cross Abbey. The Public Record Office, London
- 2 and 3 The Great Seal of King Edward 1.
- 4 The Privy Seal of John of Gaunt. All from the British Library, London

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THE AUSTRALIAN HERITAGE SOCIETY

The Australian Heritage Society was launched in Melbourne on 18th September, 1971 at an Australian League of Rights Seminar. It was clear that Australia's heritage is under increasing attack from all sides; spiritual, cultural, political and constitutional. A permanent body was required to ensure that young Australians were not cut off from their true heritage and the Heritage Society assumed that role in a number of ways.

The Australian Heritage Society welcomes people of all ages to join in its programme for the regeneration of the spirit of Australia. To value the great spiritual realities that we have come to know and respect through our heritage, the virtues of patriotism, of integrity and love of truth, the pursuit of goodness and beauty, and unselfish concern for other people - to maintain a love and loyalty for those values.

Young Australians have a very real challenge before them. The Australian Heritage Society, with your support, can give them the necessary lead in building a better Australia.

"Our heritage today is the fragments gleaned from past ages; the heritage of tomorrow - good or bad - will be determined by our actions today."

SIR RAPHAEL CILENTO

First Patron of the Australian Heritage Society

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IN THE BEGINNING . . .

by *Elizabeth Dixon*

The story of the People of the Common Law began ten thousand years ago when the Atlantic Ocean broke through an isthmus joining an outlying peninsula to the world's largest land space, to form an island. The rocks which form the geological bones of that island belong, not to the European mainland, but to a vanished continent embracing North America and the Atlantic, submerged under the ocean, called by archeologists 'Atlantis'.

The British island's western mountains were once the eastern peaks of the poet's drowned land of Lyonesse, for 'Britannia' was first formed millions of years ago in the Atlantic sea-bed. It arose, as the song has it, 'at heaven's command from out the azure main'.

Probably few, if any, of the early inhabitants were living on that peninsula when it was cut off from the mainland, as it was almost completely covered by dense forest. It was not those early inhabitants -- aborigines sleeping in caves and pits among rocks -- who were to set the course of its history. It was adventurers from distant and more civilized lands who, refusing to be daunted by waves and tides of the encircling seas, had learnt how to navigate them and, putting out across a stormy ocean, sought new homes in a rain-swept northern island.¹

It was between 1000 B.C. and 500 B.C. when an Aryan-speaking race, the Celts or Gaels, first appeared in Britain. They came first in small bands and families, and later in tribal armies, until they had become the dominant racial strain in both islands.

It is believed these people came from various parts of the Danube basin which was long the centre of an industry and an art that may be regarded as representing the early stages of what became known as the Celtic Iron Age culture. The most famous of these sites is near the Austrian village of Hallstatt, on the western side of a little lake about fifty kilometres south-east of Salzburg.

Excavation of the site began in 1846 and articles of bronze, iron, gold, amber and ivory were retrieved. An earlier and a later period are recognized, the former (with much bronze but not much iron) extending from about 900 B.C. to 700 B.C., and the latter from 700 B.C. to 400 B.C. There are brooches in profusion, neckbands, bracelets, finger rings, figures of animals, needles, lance-points, daggers, swords, and highly-decorated scabbards, as well as pottery. The geometrical decorations, so characteristic of what is commonly called Celtic art, are particularly well seen on the chased girdle-clasps.

During the fifth century B.C., particularly from about 450 B.C. onwards, certain objects of another culture began to infiltrate into Hallstatt; and at the turn of the century, especially about 390 B.C., a profound change occurred.

The pottery began to be made of clay heavily impregnated with graphite. The potter's wheel came into general use; jugs were made with spouts drawn out like beaks; some of these were decorated with polychrome. Gold coinage was introduced; iron brooches were inset with coral and enamel; finger rings were made of coloured glass. Swords became long, double-edged and adapted to the cutting instead of the thrusting stroke.

During the fifth century BC the people of the Hallstatt culture had already moved onwards into Great Britain and started working iron in South Wales, but the characteristic later (La Tene) culture did not reach the island until about 250 B.C.²

Some of the finest Iron Age remains of their type were uncovered in recent years at Maiden Castle in Dorset -- one of the

largest and best examples of a pre-historic hill fortress in Europe. Archeologists have found the clearly visible foundations of three circular houses dating from about 200 B.C., complete with stone ovens, paved entrance porches and a complex of huge grain storage pits, as well as ornaments, weapons and animal bones. It confirms the belief that a long, low-ramparted hill above Dorchester, occupied from 5000 B.C. until the Roman Conquest, was a rich Celtic political and economic centre with a population of at least one thousand.

One group of invaders -- the Prythons or Brythons --
later gave their name to the whole island

The evidence points to a powerful and sophisticated tribal society. Carbonised grain and crop remains illustrate a rich economy, while brooches, combs and wine jars imported from France indicate the sophistication and level of development of the people.³ And, for no very clear reason, one group of invaders -- the Prythons or Brythons -- later gave their name to the whole island.

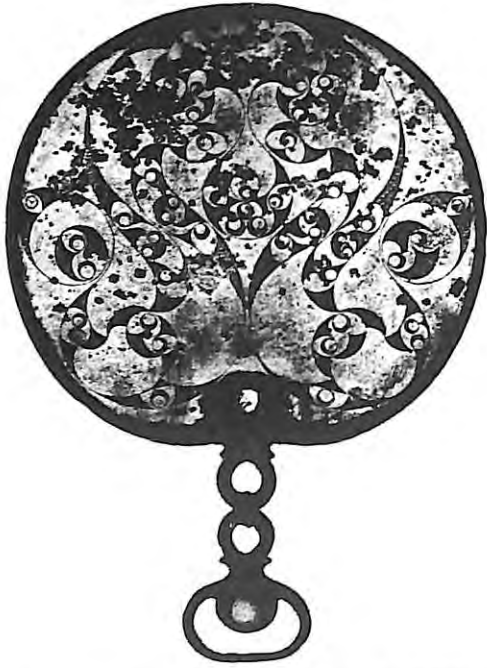
It was in 55 and 54 B.C. that the Romans, under Julius Caesar, invaded Britain, but it was nearly one hundred years later before they partially conquered the land. By the end of the fourth century A.D., the Roman Empire was disintegrating both from internal dissension and inertia and from the attacks of barbaric tribes from outside. The last legions in Britain were recalled to defend Italy and in 410 A.D. a Visigoth host sacked the imperial city of Rome itself.

The closing years of Roman rule had been disturbed by attacks made upon it by new enemies. From the north came the Picts, who formerly had been called the Caledonians (Latinized version of the Celtic "Caoill Dgoin" or "people of the woods"). The Scots, at that stage dwelling in the north of Ireland, crossed the sea and plundered the western coast. From the east came swarms of pirates who spread terror among those who dwelt along the shores of the North Sea and the English Channel.

The Britons again had to protect themselves but alone they were no match for their enemies; they called upon certain Teutonic⁴ tribes to help them. These tribes remained and gradually took possession of Kent and the Isle of Wight. Then more powerful enemies arrived, the Angles from southern Denmark and the Saxons from north of Germany. The Angles set up three great kingdoms, viz. Northumbria, Mercia and East Anglia. South of these lay the lands conquered by the Saxons -- Wessex, Essex, Sussex and Middlesex.

Soon the conquerors ceased to be known as Angles and Saxons and the common name 'English' was given to them all.

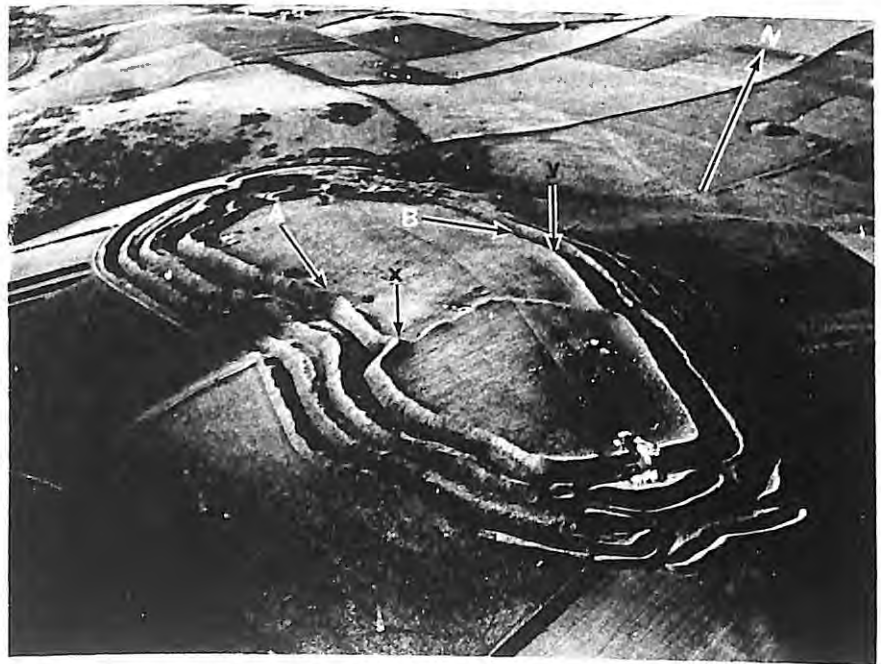
While the West Saxons were still fighting to prove themselves to be the strongest people in England a new peril threatened the whole country. The English in their turn were now attacked by Vikings⁵ from Norway and the north of Denmark. These Danes



A bronze mirror with handle [ca. A.D. 15-20]
 (An example of British Iron Age art at its fully developed stage)



A small shield of gilt bronze
 [ca B.C. 15 & A.D. 50]
 (Another example of British Iron Age art)



Some of the finest Iron Age remains of their type were uncovered at Maiden Castle in Dorset in 1986

were nearly-related to the English in origin and language. If we represent the Angles and Saxons as brothers, we may call the Danes their cousins.

For the next two hundred years, the English were engaged in constant wars with the Danes or 'Norsemen'. The kings who were most successful in resisting them were Alfred the Great (871-901) and Aethelstan (925-941). But the Danes returned again and again; Aethelred the Unready (978-1017) tried to get rid of them by bribing them with money, money he had exacted from his people in the form of a tax called Dane-geld, or Dane-money. The Danes succeeded in wresting the crown of England from him and held it for over twenty years.

The men from the north had attacked other lands besides England in King Alfred's day. Some of them, sailing farther to the south, had conquered the northern part of France where they were called Northmen or Normans. They soon adopted the language, religion and customs of the French and it was a Norman, William, Duke of Normandy, who conquered the English at the Battle of Hastings in 1066.

Although King Alfred had united the tribes into one kingdom nearly two hundred years before, the crown of England had now passed to Normans who wore it for more than three centuries.

1. Sir Arthur Bryant, *Set in a Silver Sea* (Great Britain, Collins, 1984).
2. John R. Baker, *Race* (Published by permission, Oxford University Press, Foundation for Human Understanding, U.S.A.).
3. *The Australian*, 4 Sept., 1986.
4. William H. Collier, *History of the British Empire* (J. Nelson & Sons, London)
5. Teutons -- the name for the whole stock of nations inhabiting the north of Europe. It consisted of two branches: the Scandinavian or Norse, and the Gothic. To the former belong Icelanders, Danes, Swedes and Norwegians; to the latter, the English, the Germans, the Flemish and the Dutch.
6. Vikings -- Old-English word for pirates.

COMMON LAW and NATIONAL UNITY

by Rev. Arthur Fellows

In England the development of Common Law and national unity arose out of particular historical situations, in which the Church was intimately involved. The interaction between Church and State was a remarkable feature of English life from the 7th century onwards. In 673 Archbishop Theodore's Synod of Hertford produced Canons which bound the bishops as well as priests and laity, and here was something which men and women realised could point to a time when those who ruled were bound by a law as much as those who were ruled. In addition the Canons bound men and women over the length and breadth of the seven kingdoms, and so pointed to a vision of a single kingdom with one law for all.

In the administration of law the diocesan bishop sat in the courts of the shire moot, and the parish priest sat in the courts of the 'hundred' moot ('hundred' being an ancient term for groupings of land holdings, known in Yorkshire as 'ridings').

Kings sometimes presided over synods, whose decisions were accepted by the Witan (the precursors of the parliaments). Conversely, the Witan, in which sat high ecclesiastics, passed laws affecting the Church. Church and secular law were mixed up.

The Development of synods paved the way for our parliaments. Consisting originally of bishops, they gradually included theologians (e.g. Hertford in 673), abbots, and eventually diocesan clergy. In 1258 Archdeacons were summoned with letters of proxy from their clergy, and so it is not surprising that Simon de Montfort's parliament of 1265 included representatives of the citizens. In 1283 the Convocation included representatives of the clergy of each diocese and one representative from each chapter. Again, we are not surprised to see Edward I's Model Parliament including two knights chosen by the popular court of each shire and two citizens or burgesses from every city or borough town. Some people think that the Church's synods have grown out of parliament, but the reverse is the case.

We must not forget that it was a remarkable Archbishop of Canterbury, Stephen Langton, who was the moving spirit behind *Magna Carta*. When King John was ruling badly, the Archbishop searched the archives and found the Charter of King Henry I, which embodied the laws of Edward the Confessor. He called the barons together in London in August 1213 and presented this document to them. They declared themselves willing to die for these liberties. Opposition to King John proved too strong for him and he was forced to sign *Magna Carta* in June 1215. Before the close of the Middle Ages, confirmation of the Great Charter had been demanded, and granted, 39 times. Bishop William Stubbs, in his three-volume work on the constitutional history of England, says that work is little more than a commentary on *Magna Carta* after 1215. Lovers of liberty and history would do well to acquire a copy of the English translation of *Magna Carta* because there is not much point in reverencing *Magna Carta* if one has never read it.

The divisions militate against a proper perception of a role of the Church as guardian of the rights of the individual in an increasingly monolithic and all-powerful state.

Since the 16th century the Western Church has been divided, the divisions multiplying as the years have rolled on. There has been a loss of that interaction which was a feature of earlier history, and Churches do not speak with the same voice nowadays. The divisions militate against a proper perception of a role of the Church as guardian of the rights of the individual in an increasingly monolithic and all-powerful State.

Within these divisions is a further division which cuts across all ecclesiastical boundaries -- the division between conservative and liberal. Years ago (I think it was in the 1960's) it was said that the world must set the agenda for the Church. This caught on as though it was a new gospel, and many people dived into this water. So it is that a great many of our bishops and other Church leaders seem preoccupied with the social and political problems that are magnifying as time passes. They will speak out on all manner of contemporary issues, but are often soft on the great moral issues of homosexuality, abortion, pornography, etc. They seem silent on the trend to centralise power, forgetting that the Church in times past was foremost in achieving a balance of power between the Crown and the Parliament. They are unconcerned about the move to whittle away the remaining powers of the Crown and to concentrate power in a lower house of parliament (which means, in effect, in the Cabinet, and behind that, the power of the Prime Minister's Department and the bureaucracy). Surely it is axiomatic that the centralisation of power never works for the benefit of the individual. Why then are few voices raised in promotion of Citizens' Initiated Referenda?

In accordance with the humanist and feminist agendas the Church seeks for cultural 'relevance', but it is the unchanging truths of the Gospel which can forever set us free. How fragile and short-lived is 'relevance'! No sooner have some Church leaders thought that they had achieved relevance than they find that the world has moved on to another agenda. So the liberals are always trotting behind the times, always trying to catch up. In relation to The Uniting Church's decision on abortion, an ABC interviewer asked an opponent of that decision, "Don't you think the Church should reflect community attitudes?" He gave a straight "No" to that, but unfortunately his Church decided otherwise. It is worth quoting O.S. Guinness in his book, *The Gravedigger File*:

"Nothing tires like a trend, or ages faster than a fashion. Today's bold headline is tomorrow's yellowing newsprint. ... The pursuit of relevance in the liberal mode is a cast-iron guarantee that, by definition, the Church will always lag behind the world and run at the rear of the pack. The world changes its agenda constantly, and the Church goes around in circles."

In the Anglican Church the issue of ordination of women is a good illustration. Theology is jettisoned in favour of emotive and 'politically correct' terms like 'justice', 'equality', 'discrimination', and so on. These are the modern shibboleths (see the origin of this word in *Judges 12*) to which Church leaders have succumbed. One Archbishop has said that the credibility of the Church would be "gravely diminished" if the General Synod failed to pass the appropriate Canon to permit such ordination.

Malcolm Muggeridge, who came to faith in his later years, wrote of the Church in *Jesus Rediscovered*: "It seems to me that many of its leaders have of their own accord allied themselves with the forces of the world, and that is the one disastrous thing they can do."

Secularisation is the process by which successive sectors of society have been 'freed' from the decisive influence of religious ideas and institutions. The Church has had a hand in this herself by running with the tide, by transforming a transcendental faith into charters on all kinds of social and political action, most of which are of the 'progressive' variety.

A failure to proclaim and to hold to the moral law means that a different attitude is acquired towards matters of great national interest and importance. A refusal to abide by the moral law provokes a rebellious spirit which is ready to tear down other aspects of a heritage which is as much spiritual as political.

Dedicated lay members of the Churches must make sure that they hold to the moral law and thus are really free to pursue the truth by a religious faith which has an historical perspective and is not moved by latter-day false teachings. This is essential if hard-won liberties are not to be lost in the dustbin of history.

Thus says the Lord:

"Stand by the roads, and look, and ask for the ancient paths where the good way is; and walk in it."

But they said, "We will not walk in it."

I set watchmen over you, saying,

"Give heed to the sound of the trumpet."

But they said, "We will not give heed."

Therefore hear, O nations, and know, O congregation, what will happen to them.

Jeremiah 5: 16-18

COUNSEL and CONSENT

by Sir Arthur Bryant

The following article, although written of the British scene in 1968, reflects our own situation and the growing antipathy felt by people in this nation towards their political representatives.

The essence of democracy -- if that misused word still has any meaning -- is two-way debate. All government, under whatever name, is partly authoritarian; if it is not, it is not government. In any but the smallest and most primitive society, the only alternative to government is anarchy, that is, a continuous conflict of competing and mutually destructive violence and intimidation.

Yet no one likes government when, as inevitably happens, it involves restraints on the individual or acts of authority which the individual feels to be oppressive or unjust. Hence the process which has continued, under various forms, since the earliest recorded times, of those subject to government seeking to compel or persuade those in authority to debate and argue with them their authoritative proposals and acts. To achieve what our Plantagenet sovereigns seven centuries ago called "counsel and consent" in the administration of affairs.

To get those in power to recognise -- so hard, human nature being what it is, for them to accept -- that "that which touches all should be approved by all". If the history of our country has any significance for mankind, it is the patient persistence with which its people over the centuries have contended for this principle and found enduring ways of applying it.

It is often said that there is no such thing as a British Constitution and never has been. This last is nonsense. There never was a continuing society which had so strong and complex a constitution as that which developed in the southern half of this island under the aegis of its Plantagenet, Tudor, Stuart and Hanoverian sovereigns. It is beside the point to say it was not a written constitution, like those which lawyers and philosophers drafted under the eighteenth and nineteenth century liberal revolutions in America, France and other lands. It was not written because there was no need to write it. Having evolved gradually, it was accepted in practice by successive generations of Englishmen, who continuously adapted and applied it to their contemporary needs. What mattered was that it was always concerned with the vital point of how to achieve "counsel and consent" in the ruling of the realm. Sometimes this was sought and achieved by one means, sometimes by another. Written affirmations of constitutional law like Magna Carta or the Bill of Rights were only

passing and fragmentary expressions of the enduring national resolve to ensure that those who wielded power should hear and consider what those subject to it felt and had to say about it.

Paradoxically, in what, by our standards, was an anarchical age and land, it was the very resolve of strong sovereigns like Henry II and Edward I to make their rule more effective which gave England the beginnings of its flexible mechanism for ensuring counsel and consent between ruler and ruled. By delegating part of the functions of government to those of their subjects best able to resist and impede their edicts, they made the representatives of the ruled part of the machinery of government. Side by side with the royal instruments of power in the shires -- sheriffs, coroners and itinerant judges -- they appointed local magnates, "knights of the shire", as they came to be called, and conservators or justices of the peace, to serve on judicial benches and inquisitions and provide the means of a colloquy between the central government and the localities. In the fullness of time they called to their consultations at Westminster and to the meetings of the Great Council of the Realm such knights of the shire and, before long, their humbler trading counterparts, the burgesses of the chartered boroughs. What at first was a temporary and occasional expedient gradually became an accepted and permanent custom. These originally humble representatives of the local communities were able to make their voice felt, and that of those they represented, because they themselves were part of the machinery of royal government and, as such, so necessary to the Crown that the latter could not effectively function without them. The rulers of the realm had to hear what they had to say and pay some heed to it. And the right of these representatives to speak, and the forms of doing so and of voicing the needs and grievances of the subject, grew to be habitually and universally recognised, so much so that when any English sovereign tried to ignore and override them he found his throne in danger.



Charles I
[Painting by
Sir Anthony van Dyck,
1635]

From Edward II to Richard II, from Richard II to Charles I and James II, the story under varying forms was the same: England could not be ruled without counsel and consent. And when a strong ruler, like Edward I or Henry VIII, wished to do strong and radical things, he was careful to use the mechanism through which his subjects expressed their needs and grievances, to endorse and enforce his will. The greatest, swiftest and most drastic revolution in our history, initiated by the Crown in the sixteenth century, was a parliamentary revolution carried out, at the king's behest, by a consulted and consenting parliament. It was this that made it so difficult to halt and resist. To quote Marvell on a later, but ultimately less successful, revolution, "It cast the kingdoms old into another mould."

Crown, Lords and Commons, the historic components of the High Court of Parliament, have played various roles, but their supreme service has always been that together they provided a two-way debate between rulers and ruled. What is disquieting about our rapidly changing modern policy is that it is becoming felt they no longer do so. In the name of the absolute sanctity of an arithmetical, mechanical and comparatively novel formula of representation, the House of Commons has almost totally monopolised the powers of Parliament at the expense of its other components, while, through the instrumentality of a monolithic party machine and an entrenched and gargantuan Civil Service, the Prime Minister and Cabinet are able to exert a near dictatorship over the House of Commons, whose members too often seem to the man in the street, not so much the representatives of the community, as the instrument and mouthpiece through which the Executive makes its edicts, if not acceptable, compulsorily accepted.

The public is waking up to the discomfort of a situation in which it can no longer effectively argue the toss with those who rule it.

It feels that its voice is not sufficiently heard and heeded in the corridors of power. It does not want to see Britain go the way of other so-called democracies where a one-party controlled parliament or national assembly, silent and obedient, is merely the rubber stamp of an all-powerful dictatorial ruler or party caucus.

To restore parliamentary institutions to their former prestige and authority is the greatest of the tasks awaiting statesmen today. As Disraeli put it, "The formation of a free government on an extensive scale, while it is assuredly one of the most interesting problems of humanity, is certainly the greatest achievement of human wit. ... It requires such refined prudence, such comprehensive knowledge and such perspicacious sagacity, united with such almost illimitable powers of combination, that it is nearly in vain to hope for qualities so rare to be congregated in a solitary mind. ... With us it has been the growth of ages, and brooding centuries have watched over and tended its perilous birth and feeble infancy." It resides neither in the procedures of Parliament nor the present-day egalitarianism of the franchise -- a mechanical device for ascertaining the popular will which many other countries today share with us and not wholly successfully -- but in a far more subtle amalgam of individual rights and corporate powers. **The recipe for it, and for what it has made possible in the way of contented and fruitful social living and creative achievement, is to be found in our history.**

(Reprinted with permission from *The Lion & the Unicorn*.)

ORIGINS OF COMMON LAW

Throughout its long history, the English Common Law has borne directly on the raw facts of daily life in English society. The rules of Common Law are social rules, never remote from life. They serve the needs of a society once feudal and agricultural but now industrial and urban.

Gradually, as social changes have occurred, the law has been adapted by judicial interpretation to meet new conditions; it continues, as always, to reflect the character of the social order.

Englishmen accepted then, as they do now, the need for rules governing such recurring relations as those between buyer and seller, landlord and tenant, guardian and ward, creditor and debtor. Rules of Common Law touch a farmer's property rights in a crop of wheat planted in a rented field or the right to use a public roadway. Nor is the Common Law a stranger in the market place; the fishmonger as well as the banker may invoke its protection.

The bond between law and society is close and intimate. The history of the Common Law is matter-of-fact and rests ultimately on the relationships of people who have taken their differences before a court for settlement.

There is value in an account of the Common Law during its foundation years, when its principles were not overlaid by a vast burden of statutory legislation designed for the complexity of modern life. Common Law is that body of rules prescribing social conduct and liable to trial in the royal courts of England. Yet the law enforced in royal courts, and common to all the realm of England, was comparatively new. From earliest times, dispute and village affairs were settled at the lord's manor-court or *moot*; its jurisdiction and fines were among the most valuable of feudal rights. It was presided over by the lord's steward and met once a fortnight in his hall or outhouse, or, in summer, under the village oak tree. But it was open to the whole village, and assessors or jurymen who stated the local customs on which judgements were based and which formed the law of the manor, were the tenants who owed it suit.

Those customs were handed down from father to son and recorded on the court rolls. They expressed the common experience and conscience of the neighbourhood. Nor was it easy for even the most powerful lord to ignore custom of those on whose labour and skill he depended.

In such courts, in thousands of villages up and down England, justice was done between man and man; offences against manorial custom were punished and the services and rights of the villein tenant enforced and recorded. On its rolls were entered the exact terms under which he held his land. In time, copies of these entries came to be regarded as title to his holding. It gradually became customary to claim possession of land by 'copyhold', a form of tenure which was later recognized, as the villein acquired full legal rights, by the King's judges.

Service in the manor-courts helped to train Englishmen for a free system of society. It taught them to weigh evidence and distinguish between personal feelings and public needs. The English peasant learnt to blend legal precision with human give and take. Eventually, often in the teeth of tyrannical encroachment, the English peasant community also, little by little, preserved and extended its rights.

Serious crimes or disputes between villages would be taken to the *Hundred Moot*, since the 'hundred' was a district



which included several villages. More important still was the *Shire Moot*, held two or three times a year by the shire-reeve (sheriff) who acted for the King.

By traditional Anglo-Saxon law every able-bodied man between the ages of fifteen and sixty was obliged to take his share in the policing and defence of his native place. A village was responsible to the sheriff for public order within its boundaries and could be collectively fined for crimes committed in it. Its priest, reeve and four 'lawful men' represented it at the sheriff's tourn and hundred court.

Highest of all was the *Witan Moot*, the meeting of the wise men, that is the ealdormen, who advised the King on such matters as peace and war. The Witan elected the King and they did not always choose the dead man's eldest son, since he might be too young or too silly to rule. Usually, however, they chose one of the royal family. It was the great Council of tenants-in-chief who made the despotic King John promise to observe ancient law and govern with the consent of his chief men.

By the end of the thirteenth century, the Common Law had absorbed much, if not all, of the judicial business of the other courts and may have borrowed heavily from them in the process.

In a time before there was much parliamentary legislation the royal judges would look to the Writ system and to the Register of Writs for the Common Law. During the twelfth and thirteenth centuries it was the practice in England to create an appropriate writ for the protection of every right or interest recognized by the royal courts. There is no better evidence for the growth of Common Law in the Middle Ages.

Source Material:

Arthur R. Hogue, *Origins of the Common Law* (Indiana University Press, 1966).

Sir Arthur Bryant, *Set in a Silver Sea* (Great Britain, Collins, 1984).

Reeve: The name of an official who was the chief magistrate of a town or other district, usually with a prefix as town-reeve, port-reeve, etc.

Tourn: Series of contests between mounted men in armour, armed with the lance, with which weapon each combatant tried to unhorse his opponent.





\$ DOLLARS, NOT SENSE.

Comparing the cost of a republic.

by Randall J. Dicks

One of the most persistent canards about monarchy is that "it is so expensive". Consider the facts regarding the expenses of a major modern monarchy, the British. In this case, one does make a definite distinction between the monarchy of the United Kingdom and that of Australia. The latest total for the Queen's Civil List in the United Kingdom is some £12 million, which is distributed among nine members of the Royal Family (several others receive allowances via the Queen). Her Majesty is Queen of seventeen different countries, and Head of the Commonwealth, but there is only one "pay-cheque", as it were, seventeen monarchies for the price of one.

If one hears complaints about the expense of monarchy, one might naturally be led to think that this expense is in contrast to the modest cost of other systems. This is not the case; republicans pay a hefty price. Let us consider one aspect of the expense of operating one large republic, namely, the quadrennial presidential election in the United States of America.

These campaigns rely heavily on private contributions. By law, a donor is prohibited from giving more than US\$1,000 to any one candidate. In practice, this limitation is easily evaded through what has come to be called the "soft money loophole". One cannot give more than US\$1,000 to George Bush or to Bill Clinton, but there is no limit to what a munificent donor may give to the Republican or Democratic parties. Thus, at a fund-raising dinner for the Republican Party in Washington, D.C., last spring, US\$9 million was raised for the Party -- and ultimately for the Party's standard-bearer, George Bush.

Campaign finance reforms of the last two decades were supposed to result in some changes in the way presidential election campaigns operate; major candidates were to receive substantial funding from the United States Treasury, eliminating the need for extensive solicitation of private donors. Each year, one's federal income tax return asks the question: "Presidential Election Campaign: Do you want \$1 to go to this Fund?" One checks either 'yes' or 'no', with no effect on the amount of tax one must pay. Sure enough, as soon as Bill Clinton and George Bush were formally anointed at their parties' conventions, each received US\$55 million in public monies from 'this Fund', and the Democratic and Republican parties themselves received US\$10 million each.

But campaign financing, in actual fact, does not stop with the funds received from the Federal Election Commission. Each party, and all the lesser parties, too, energetically seek out any possible potential contributor. US\$55 million is not enough, not if both major parties have the same amount. As one party fundraiser described the situation, if two companies make a similar product, and one company spends \$3 million on research and development, and the other spends \$17 million, and their products really are not much different, it is obvious which company will win the market share. The presidential candidate is a product, and presidential politics in this republic is big business, having nothing to do with democracy. Phil Angelides, a fund-raiser for the Democrats, says that US\$55 million barely scratches the surface in reaching a nation of 260 million people.¹

It is estimated that the 1992 Presidential election campaign will have cost more than US\$400 million

The Republicans have an inner circle of contributors known as Team 100; each member has given at least US\$100,000 to the Party. The Democratic equivalent is the Managing Trustees, each one of whom has given US\$200,000.

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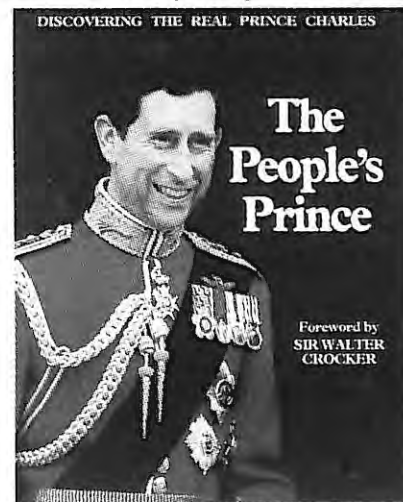
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Since 1988, eleven members of the Republican Team 100 have been made ambassadors. The successful candidate supported by Team 100 will owe a large debt to all the members of that Team, and the Team members will receive special access to that successful candidate in return for their largesse.

A Republican fund-raising event was held in California some time before the election, organized by a faithful Party contributor who represents agri-business interests. Days after the event, which raised US\$1 million for the Party, President Bush issued an Emergency Order, reversing his own Interior Department's policy, releasing 326 billion gallons of federally-subsidized water to central and southern California corporate farms (including the ranches of two Team 100 members), despite causing shortages and damage to fishing and the environment elsewhere in the state. The agri-business representative suggested that the issuance of the order was coincidence.

The chairman of a company which is the world's largest processor of agricultural products wanted a waiver of the Clean Air Act, so that the company could sell more of the ethanol it manufactures. That chairman has been a heavy campaign contributor for decades. President Bush granted the waiver in October. It may have been a coincidence, too.

During the Republican National Convention in Houston, a giant oil company sponsored a fund-raising event for the Republicans, raising US\$4 million. The company is seeking permission to drill for oil on a wildlife refuge in Alaska, and gave US\$400,000 to the Republicans, US\$600,000 to the Democrats, thus covering both sides.

The cost of the monarchy to Australia is minimal. The Queen received nothing from the Australian Government, which leaves the only expense as that for maintaining her personal representative, the Governor-General.

The presidential candidate is a product, and presidential politics in the U.S. is big business, having nothing to do with democracy.

Fred Wertheimer, President of Common Cause, a leading public interest organization, considers the campaign financing system to be a technique of legalized corruption, when a person (or corporation) can give a candidate (through his party) millions of dollars, while at the same time the person or corporation wants an enormous favour from the government. This free flow of cash is a formula for selling the government to wealthy people and special interests, he declares.²

There have nearly always been third-party candidates in American presidential elections, including this year's Libertarian and Natural Law candidates. Ross Perot was a more unusual candidate, in that he was an independent, without a party. But he did not need a party; he had a personal fortune of some US\$3,000,000,000, comparable in size to his ego. "Everyone's accusing me of buying the election," he said, "and my reply to 'em is, 'That's right.'" He pledged to spend US\$100 million of his own money, or whatever it would cost. By the end of October he had spent US\$60 million, and was spending at the rate of US\$1 million per day.³ A 1976 U.S. Supreme Court decision ruled that there was no limit to what an individual could spend of his own money on behalf of his own election campaign. Not many candidates have been in the position to spend as Mr. Perot did.

In the end, it is estimated that the 1992 presidential

election campaign will have cost more than US\$400 million. That is more than 21 times the £12 million that the British monarchy costs, and that US\$400 million does not cover one penny of the actual operating costs of the presidency. It costs that whopping sum just to choose the person who is to sit in the president's chair, without his actually taking a seat.

At the same time that the American voters choose a new President and Vice-President, they also elect 435 Representatives and one-third of the Senate. The cost of those election campaigns will probably reach US\$200 million.⁴ Ellen Miller, head of a campaign finance "watchdog" group, describes it as a "pay-to-play" system, in which a candidate for public office must either be very wealthy, or beholden to the very wealthy, and one must virtually be a billionaire, like Ross Perot, in order to be a viable independent candidate for the highest office. It does not always mean that you win if you have the most money, she says -- just 95% of the time.⁵

Some other costs of the American Republic? Recent annual White House travel expenses were US\$63 million. The annual cost of the United States Congress is estimated at US\$2,800,000,000. That amount, if invested at just 2 or 3% interest, would keep the ten monarchies of Europe comfortably afloat for the next century.

Perhaps monarchy is expensive, but it does not follow that republics are cheap. All forms of government are expensive, but some give decidedly better value for the taxpayer's dollar. The cost of the monarchy to Australia is minimal. The Queen receives nothing from the Australian government, which leaves the only expense as that for maintaining her personal representative, the Governor-General. The same is basically true for Antigua and Barbuda, the Bahamas, Barbados, Belize, Canada, Dominica, Grenada, Jamaica, New Zealand, Papua New Guinea, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines, the Solomon Islands, and Tuvalu, all of which enjoy the benefits of monarchy at almost no expense.

Of course, one of the advantages of monarchy is that there is nothing to compare with the expense of a presidential election, or with its after effects. The monarch does not have to undergo this periodic trial by elector, and does not become beholden to Team 100 or to Managing Trustees or to fund-raising oil companies. The monarch is king or queen of all the people, not king first and foremost of the "fat cats" who write the very large cheques.

1. "The Best Campaign Money Can Buy", "Frontline" programme, Public Broadcasting System, October 27, 1992. Mr. Angelides is a member of the Managing Trustees.
2. Ibid.
3. Perot Spending More on Ads Than Any Candidate Before", *The New York Times*, October 28, 1992.
4. "Campaign Spending on Congress Races Soars to New High", *The New York Times*, October 29, 1992. The ten most costly election campaigns total about US\$45 million.
5. Ellen Miller, "Morning Edition", National Public Radio, October 29, 1992.



THE GENTLE ARTS OF PEACE

My duty to you both, on equal love,
Great Kings of France and England! That I have laboured
With all my wits, my pains, and strong endeavours,
To bring your most imperial majesties
Unto this bar and royal interview,
Your mightiness on both parts best can witness.
Since then my office hath so far prevail'd
That face to face, and royal eye to eye,
You have congregated, let it not disgrace me
If I demand before this royal view,
What rub or what impediment there is,
Why that the naked, poor, and mangled Peace,
Dear nurse of arts, plenties, and joyful births,
Should not in this best garden of the world,
Our fertile France, put up her lovely visage?
Alas! she hath from France too long been chased,
And all her husbandry doth lie on heaps,
Corrupting in its own fertility.
Her vine, the merry cheerer of the heart,
Unpruned dies; her hedges even-pleach'd
Like prisoners wildly overgrown with hair,
Put forth disorder'd twigs; her fallow lies
The darnel, hemlock and rank fumitory
Doth root upon, while that the coulter rusts
That should de-racinatè such savagery;
The even mead, that erst brought sweetly forth
The freckled cowslip, burnet, and green clover,
Wanting the scythe, all uncorrected, rank,
Conceives by idleness, and nothing seems
But hateful docks, rough thistles, kecksies, burrs,
Losing both beauty and utility;
And as our vineyards, fallows, meads, and hedges,
Defective in their natures, grow to wildness;
Even so our houses and ourselves and children
Have lost, or do not learn for want of time,
The sciences that should become our country,
But grow like savages, as soldiers will
That nothing do but meditate on blood,
To swearing and stern looks, diffusèd attire,
And every thing that seems unnatural
Which to reduce into our former favour
You are assembled; and my speech entreats
That I may know the let why gentle Peace
Should not expel these inconveniences,
And bless us with her former qualities.

Duke of Burgundy from Shakespeare's *Henry V*.

ROYAL WRIT

A Royal Writ was an order from the king under the Great Seal, addressed to the sheriff of the county in which the cause of action arose or where the defendant resided, commanding him to cause the party complained of to appear in the king's court at a certain day to answer the complaint.

Every writ was founded on some principle of law, *regula juris*, which gave the right on which the action was founded and the facts were stated with so much detail only as to bring the case within such principles of law.

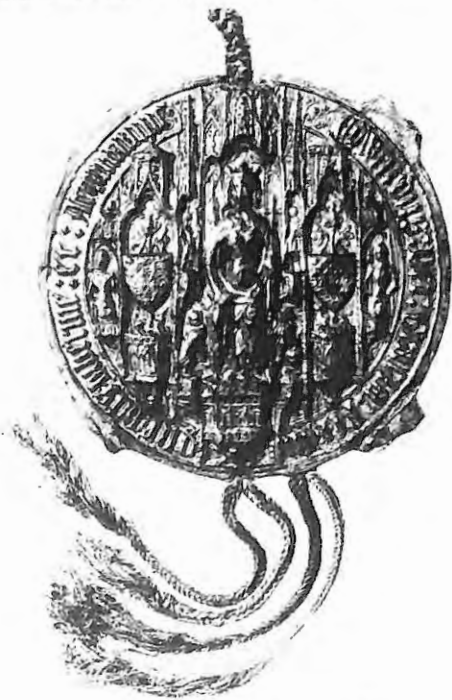
Each order, or writ, acquired a name. For example, to secure enforcement of an agreement, a plaintiff would obtain from Chancery, the writ-issuing bureau, a writ called 'Covenant': To collect a certain sum of money lent, the plaintiff would bring the action of Debt; to recover personal property or chattels illegally taken, the plaintiff would obtain a writ of Replevin.

The numbers of writs increased from about thirty-nine in the time of Glanvill (ca. 1189) to more than four hundred in the reign of Edward I (1272-1307). Sometimes a writ took its name from a Latin word or phrase; the writ of Right, called *Praeceptum*, mentioned in Magna Carta, Chapter 34, was so named for the first word following the salutation clause of the writ.

The entire formula of the *Praeceptum quod reddat* can serve as an illustration of an original royal writ:

"The King to the sheriff, greeting. Command (*Praeceptum*) N. that justly and without delay he render to R. one hide of land in such vill, whereof the said R. complains that the said N. deforces him. And if he does not do this, summon him by good summoners that he be before me or my justices on the morrow of the second Sunday after Easter at such a place to show why he did not do it.

And have there the summoners and this writ.



[Great Seal of King Edward III]
Witness Ranulf de Glanvill At Clarendon"

Aggrieved man takes the initiative.

Facts of the case concisely embodied in the writ.
Should the case go to court, the writ reveals a concern on the part of the king that men throughout the realm shall enjoy undisturbed possession of property.

There is much more compressed into such a formula than the layman might imagine. Elements essential for any trial are either plainly stated or clearly implied. First of all, notice that the aggrieved man takes the initiative; he actively seeks aid from the royal courts in the recovery of his property. The plaintiff goes to Chancery and complains that he has been deforced of one hide of land (about 120 acres). He states the facts of the case, and they are concisely embodied in the writ, which tells the sheriff who allegedly took the land, how much land, and where the land is located. In this particular writ the defendant is ordered to obey the king's command. If he refuses, a certain time is set for the beginning of a trial at a certain place. At that time and place the sheriff will 'return' the writ so that the court will have the facts of the case and the grounds for an action with any additional information the sheriff may need to supply. The writ implies that the court will move to a decision, determining whether the plaintiff or the defendant has the better right to the disputed hide of land. Also, by implication, this writ reveals a concern on the part of the king that men throughout the realm shall enjoy undisturbed possession of property to which they have a right and that to accomplish this purpose the royal authority will act, when called upon, through the royal Chancery, the sheriff, and the courts of justice. Finally, it is implied that the sheriff, a royal agent, will execute the decision of the court.

During the twelfth and thirteenth centuries the tendency in England was to create an appropriate writ for the protection of every private right or interest recognized by the royal courts. Then, at the end of the thirteenth century, the lush growth slowed, and the time soon came when the plaintiff whose case could not be brought within the scope of one of the common-law writs might be compelled to seek a remedy elsewhere than in a common-law court, perhaps by means of a petition to the chancellor. The writ system hardened and set in the fourteenth century.

From Glanvill onward, until the nineteenth century at least, the *Register of Writs* was one of the most valuable sources a lawyer could consult to determine legal remedies available at common law, for the early "writs of course", the commonly known formulae, embodied the law of England fully as much as did later statutes of Parliament. Ultimately the court before which a case was tried had the final word on the suitability of a writ; if it did not fit the facts of a case, a writ might be quashed.

In this, as in all matters involved in trial procedure, the litigants seeking royal justice had no alternative but to accept the ruling of a royal court or to petition the king and his council for a remedy.

EXAMPLES OF ROYAL WRITS

Some of the original writs clearly fall into groups, or families, within which the formulae are closely related because they are grounded on a single principle; variations embodying the principle thus swelled the Register of Writs.

The "Writs of Entry", for example, are all founded on the fact of a recent flaw in title to real property. Various situations can create a recent flaw -- a wrongful enfeoffment [enforcement] or transfer of seisin [act of taking legal possession of freehold estates], by a bailiff, guardian, lessee, or tenant-for-life; this act and those of other unqualified persons might produce **disputed titles**. Consequently, the "Writs of Entry" multiplied, and by the reign of Edward I there were eighteen of them.

The "Action of Trespass" was "that fertile mother of actions". Trespass **against land**, trespass **against the person**, and trespass **against goods** were all variants of a principle involving the misuse of force -- "by force and arms" the wrongdoer has committed a fault. [This writ was framed and accepted by the royal courts about 1252. Beforehand a man might be expected to act on his own behalf in defence of his own goods or lands or person.]

Those persons pursuing and catching a 'hand-having' or 'back-bearing' thief were allowed to execute him on the spot. The Northumberland assize rolls for 1255 record an incident: A certain "foreigner" (*extraneus*), Gilbert of Niddesdale, met a hermit on the moors Northumberland, "beat him and wounded him and left him half dead, and stole his garments and one penny, and fled away." Gilbert was caught. The hermit asked for his stolen penny. But he was told to observe the custom of the county -- to recover his stolen chattels a man must behead the thief with his own hands. Determined to regain his penny, the hermit mustered enough strength to get it by the custom of the county.

Such rough justice was a necessity in a society lacking police officers. The population of all England was about 2 million in the 13th century and lived for the most part in rural villages. Good roads were scarce and communications poor.

Neighbourhoods enforced the peace by the **frankpledge system** which made each man in a group of ten neighbours responsible for the good behaviour of the other nine. All of England was thus organized to police itself.

Even so many persons were incapable of standing on the boundaries of their own land to resist the trespasser; for these, and others unwilling to counter force with force, the ability to invoke majestic royal authority by the Action of Trespass must have been a great benefit. **The Writs of Trespass were a genuine innovation**, clearly increasing the legal rights of Englishmen.

The legacy of medieval law to modern law in England (and in Australia) must be stated in general rather than specific remarks. It is important to note the persistence and force in the modern world of some ideas which men in the Middle Ages incorporated in the Common Law of England. Foremost among these is the idea of the supremacy of the law, a concept also

expressed in such phrases as "the rule of law" and "due process". **This idea implies that there are limits to the power of ruling, that all government agencies and the law courts themselves must operate according to known rules and procedures.**

The rule of law was difficult to apply against medieval kings who pursued absolutist policies and had no regard for established customs.

The rule of law is now difficult to apply in the face of modern ideas of sovereignty which admit no limitation on the power of ruling. But whatever the difficulties, the preservation of the rules of law, or due process, may be the only means of preserving the enjoyment of private rights and personal freedoms.

Source:

Arthur R. Hogue, *Origins of Common Law* (Indiana University Press, 1966).

W.F. Collier, L.L.D., *History of the British Empire* (London, J. Nelson & Sons).

Threat to The Rule of Law

The Rule of Law depends upon an independent judiciary, the separation of the powers of Parliament, the Executive and the Judiciary. There is the right to a trial by jury and much else associated with the concept of the Rule of Law which Australia has inherited from the United Kingdom. (Please note, Mr. Keating.) This concept was brought to Australia with the First Fleet.

But how much do Australians really know about the undergirding principles of their own legal system? Writing in the August issue of *Australian Law News*, David Miles, President of the Law Council of Australia, tells of how he wrote to every Education Minister in Australia stressing "the need for a better understanding of our legal and political structure: that, for example, the independence of the judiciary is absolutely fundamental and that there is a failure to understand that the Judiciary is no arm of government under our doctrine of the separation of powers".

David Miles relates that while he received many positive replies, one Minister said that "the reality is that judges are public servants". If Ministers of Education have little or no understanding of the nation's traditional legal and political system, it is not surprising that large numbers of young Australians have no knowledge of a vital part of their heritage.

The Australian Heritage Society exists to help bring this knowledge to younger Australians and asks all concerned Australians to assist in making it possible to achieve this objective.

... THE TUETON INVADERS

The Teuton invaders with their boar-crested helmets, woollen cloaks and long-shafted spears, moved up the rivers in their shallow war boats or tramped the disused Roman roads -- rechristened now with Saxon names like Watling Street and Fosse Way -- in search of plunder and land.

Behind them came their sturdy womenfolk and children, brought across stormy seas in open boats from the Saxon and Angle settlements in Europe.

Opposed to them, fighting also in small divided bands and driven even farther into the west -- into what are today Devon, Cornwall, Wales, the Lake District and the south-west corner of Scotland, then called Strathclyde -- were the descendants of the Celtic-Roman provincials.

And left behind by the receding British tide, in squalid, remote villages as the victors' slaves, were the primitive, pre-Celtic peasants who continued to live much as before. They survived the impenetrable scrub of the Chiltern Hills, on the Pennine and northern moors, in the marshy islands of the Fens. They were not exterminated but surrounded and absorbed. And their womenfolk, and those of the Celts, bore children to the conquerors.

What manner of people were these conquerors?

They were great seamen, fighters and colonizers, having come from desolate coasts and windswept mud-flats, gale and storm were in their blood. They crossed the seas in undecked mastless, clinker-built¹ boats -- foam-cresters -- seventy or eighty feet long, with a paddle in the stern for steering and fourteen or sixteen oars a side.

"The blast of the tempest," said one of their poets, "aids our oars, the bellowing of the heaven, the howling of the thunder hurt us not; the hurricane is our servant and drives us where we wish to go."

If they were without mercy to their foes, they looked for none at the hands of a Nature very different from that of the sunny Mediterranean. A shipwreck was thought of as a form of practice; there was no place for the weak or the craven in their world. The craven whined, the valiant kept his grief locked up in his heart. The worse fortune treated him, the truer he must be to creed and comrade; the craven gained only shame by his mean-spirited treachery.

"Courage has got to be harder, heart the stouter, spirit the sterner, as our strength weakens. Here lies our lord, cut to pieces, our best man in the dust. If anyone thinks of leaving this battle, he can howl forever."

Anglo-Saxon, Maldon 312.

"Death is better for every man than life with shame."

Anglo-Saxon, Beowulf, 2890

They loved fighting; their poetry, chanted in the mead halls of their chieftains as they sat feasting at the long benches, was full of the clash of 'the hammered blades', the serried bucklers, the shields of linden wood, of arrows sleeting like hail ... they sang the songs of battle, honouring the fallen, the joys of war and the warrior's virtues.

The gods of these people were the spirits of Battle, Storm and Nature -- common to all the Nordic peoples. They honoured only the brave and warlike. It was because of this that, despite their love of independence, they gave such loyalty to their kings



and lords. They were loyal and true to their kin and leaders; there was no shame in their eyes like that of the man who turned his back in fight or betrayed lord or comrade.

By their tales and sagas there was instilled into the young the importance of kinship and a sense of justice:

"Brothers shall fight and be each other's bane (destruction, death, mischief)." [Old Norse, Volospa]

"Nothing can ever change the claims of kinship for a right thinking man." [Anglo-Saxon Beowulf 2600]

"This first rede thee; be blameless to thy kindred. Take no vengeance though they do thee wrong." [Old Norse, Sigdrifumal, 22]

"I saw in Nastrond ... beguilers of other men's wives." [Old Norse, Volospa 38, 39]

"I sought no trickery, nor swore false oaths." [Anglo-Saxon, Beowulf 2738]

"In Nastrond I saw the perjurers." [Old Norse, Volospa 39]

"Anything is better than treachery." [Old Norse, Havamal 124]

"There Thoir, you got disgrace, when you beat women." [Old Norse, Harbarthsjoth 38]

While to the defeated Britons they seemed only cruel, boorish savages, they became great farmers; by far the best that Britain had known. With their iron axes and deep four- or eight-ox ploughs they embarked on the titanic task of clearing the forests and heavier clay soils of the eastern Midlands -- rich land that Celts and Romans had left untouched.

They were more patient, industrious and methodical than any of the peoples they had conquered. And on the lowest and working social level, they had more genius for co-operation. They worked together just as they had rowed and fought together. They shared the same ploughs; helped to cultivate one another's land and followed common rules of tillage and forestry.

They were able to make far steadier progress against the cold stubborn clay and unbroken wilderness around them than any of their predecessors. And so, gradually, these closely-knit communities, these sturdy colonists with their fine smiths, carpenters and wrights, cleared virgin ground to support growing numbers of their folk and so created in the course of time the English countryside.

Source material: Sir Arthur Bryant, *Set in a Silver Sea* (London, Collins Publishing, 1984)

Kathleen M. Gow, *Yes Virginia, There is Right and Wrong* (Canada, John Wiley & Sons)

1. Having outer boards overlapping and fastened by clinched nails.

KIN(G)SHIP...

Early man believed that Kingship originated in the heavenly realm:

"The Flood came. After the Flood came, Kingship was sent down from on High." [Sumerian King lists, Sir Charles Woolley, *Excavations at Ur.*]

Kingship (or kin-ship) was a strong binding force for the Anglo-Saxons. Although they valued their independence, they gave loyalty to their kings and lords who led them to conquest and the spoils of conquest. They were brave, loyal and true to their kin(g) and leaders.

Those who had eaten a man's salt must die by his side. 'Never shall the steadfast men round Stourmere,' cried the Essex thane as his eorl fell, 'reproach me that I journeyed lordless home.'

In the eyes of this brave people there was only one rule: to accept without flinching whatever the Fates had in store. It judged men, not by what they said or thought, but by their deeds. Yet it bred a sense of duty and responsibility without which no nation can be great or endure. It taught the rank and file to be loyal and their leaders to sacrifice themselves for the led. In the hour of adversity and danger they closed ranks and were true to one another.

Walter Lippman expressed belief in the spiritual origins of kingship when he wrote of the Coronation of Queen Elizabeth II, 2nd June, 1953:

"This is the heresy; that majorities can do no wrong, that there is no higher truth than the transient opinions of contemporary majorities, and that there is no higher law than the ambitions and the manoeuvres of the persons they are persuaded to elect.

Since the centre of men's worldly allegiance must be beyond the reach of their worldly passions, it must be founded on, it must be consecrated to, the realm of the spirit. It must be bound to the truths that are more than the private and passing opinions of persons and crowds and to the laws that are above their wishes and impulses.

This is the universal essence which Queen Elizabeth II represents for all mankind when she is recognised, is sworn, is anointed and is crowned." (*New York Herald Tribune*)

.....

Queen Elizabeth I expressed the same ideas of loyalty, sacrifice and service to one's own kin when Parliament was dissolved in 1601:

"For myself, I was never so much enticed with the glorious name of a King, or royal authority of a Queen, as delighted that God hath made me this instrument to maintain His truth and glory, and to defend this kingdom from peril, dishonour, tyranny and oppression.

"There will never Queen sit in my seat with more zeal to my country, care to my subjects, and that will sooner with willingness yield and venture her life for your good and safety than myself."

The ideal of personal freedom within a true kingdom is quite distinct from the idea of individual liberty in a 'democracy'. The essential nature of man is at once personal and social. He is, at one and the same time, an individual person and a social being -- not just a numerical, political or economic part of the whole.

.....

On behalf of the Australian Heritage Society the following facsimile was sent to Her Majesty Queen Elizabeth II in an expression of loyalty and support. We encourage our readers to take up pens and express their personal loyalty to their Queen at

this time. As in times of old, we need to 'close ranks and be true to one another'.

Letters should be addressed to: The Private Secretary to Her Majesty Queen Elizabeth II, Buckingham Palace, London, U.K.

27th November, 1992.

Sir:

Would you please convey the following message to Her Majesty Queen Elizabeth II:

Your Majesty,

The members of the Australian Heritage Society express their deep concern at the malicious media attacks on the Royal Family, Prince Charles and Princess Diana in particular, and the continual invasion of their privacy.

The intrusions have passed all bounds of common decency and fair-minded Australians are sickened by it.

We share your sense of loss because of the destructive fire at Windsor Castle and pray that out of the ashes will come a rekindling of the spirit of the people of Britain and the Commonwealth, uniting and motivating them to defend and strive to preserve those things they share and have in common -- their spiritual, constitutional and cultural heritage.

We pray especially for Your Majesty: that God will continue to protect and guide you and give you His peace.

We know that we speak on behalf of all loyal Australians in this expression of loyalty and support to Your Majesty.



THE NEW BRITISH PROVINCE OF SOUTH AUSTRALIA

(from Col. Torrens' Land Company to the Royal Province)

by K.T. Borrow

By courtesy of Mrs. M.P. Williams, a descendant of Daniel Wakefield, who drafted the Act founding South Australia, a hitherto unpublished printed text, dated 6th May, 1826, written by Edward Gibbon Wakefield, has come to light. The original is held by Admiral Torlesse, and is of great biographical interest. South Australia at that time was an *ultima thule*, and the *Australian*, Sydney, 5th March, 1826, mentioned the thirty white runaways living on Kangaroo Island with forty black women. On 8th March, 1826, B.T. Finniss, later to be associated in London with planning Adelaide, in 1836, on 8th March, 1826, was at Sandhurst Military College, making notes on fortifications. On 26th May, 1826, the Select Committee of the House of Commons reported in favour of voluntary emigration. On 4th July, 1826, R. Torrens, North End, Fulham, applied to Wilmot Horton for the command of any military detachment which might be sent to New Zealand, and spoke of "preliminary arrangements which would facilitate the future colonisation of these islands upon sound economical principles". Many of Torrens' letters are in the Derby Central Library. In about September, 1826, Lancaster was full of people collected to hear the trial of Mr. Wakefield for running away with Miss Turner. Mrs. Arbuthnot duly noted the event in her Diary. The text is entitled "A Statement of Facts regarding the Marriage of Edward G. Wakefield, Esq., with Miss Turner." The text begins:

"In the end of February I went to Macclesfield, for the purpose of paying a long-promised visit to my friend, the Reverend Dr. Davies. At that time I had heard Mr. Turner's name mentioned, but merely in casual conversation about Cheshire people; and I had no more knowledge or thought of his daughter, or any of her family, than I have of people in the Moon.

I will now state how I came to think of her, and to do what I have done.

Mr. Turner has lately purchased an Estate near Macclesfield. Upon this property he has built a House, into which, when I was in Cheshire, he was about to remove. He is Sheriff for the County this year.

Mr. Turner having, till the late purchase, been a stranger to the County, and having, as it is said, made a very large fortune by Trade, which he has discontinued, to become, all at once, what is called a "Country Gentleman", it is not surprising that he should be an object of Jealousy to the old established Gentry, and of Envy to the numerous Manufacturers, of the neighbourhood where he has settled. But, unless I had witnessed it, I never would have believed that those passions could exist to the extent in which I found them preying upon the peace of Mr. Turner's neighbours.

A wish to obtain information respecting the Silk Trade, (of which "the Distress" has of late been a subject of deep interest at Macclesfield,) led me into the company of these people, and particularly amongst some, whose hatred of the "New Squire" seemed, like the *odium theologicum*, to be great in proportion to the little difference that exists between his station and theirs.

This display (which, probably, I never should have witnessed, unless the Envy and Jealousy of Mr. Turners "friends and acquaintances" had been just then particularly excited by his preparations to "do honor", as they said, "to the Office of Sheriff") was so new, and therefore so amusing to me, that I was led, by a mere flow of spirits, and the want of some better occupation, to take pleasure in observing it, and afterwards, in exciting such pitiful spite, by finding provoking answers to the many ill-natured stories against Mr. Turner, of which such spite appeared to be the principal foundation.

For instance:- One described his bad taste, in building his new House upon the top of a bleak hill; and I defended it, by observing that he had thereby removed himself further from the Envy, and quite out of reach of the smoke, of Macclesfield. Another sneered at his having had "the Turner's Arms", instead of

the Turner Arms, inscribed on his village Inn sign. This I excused, by quoting similar mistakes on several Inn signs, the property of Noble Lords and old Cheshire Gentlemen in the neighbourhood, from whom it was surely not unbecoming in Mr. Turner to take a lesson in Heraldic Grammar. A third told how a cat (intended as Mr. Turner's Effigy,) had been gibbeted on his park gate, -- thereby, said I, saving his Keeper the trouble of shooting it. Then came a host of sneers and tales about the gorgeous dresses of the Sheriff's Officers, Trumpeters, and Javelin men; about the substitution of the family crest, in tin, for the ancient Vane of the Village Church; about spring guns, set to shoot a workhouse idiot; and about Mr. Turner's inhuman treatment of Mr. Jones, the Clergyman of Shrigley, -- to all of which, (and to many others, that represented Mr. Turner as a low-bred, ignorant Upstart, cursed with Purse-pride, and a most unforgiving and savage temper,) I found some irritating answer, till, at last, I became, as it were, the Champion of this man, whom I did not know, and whose acquaintance I had not the slightest wish to make.

Of course, amidst all this back-biting, Mr. Turner's only daughter was not forgotten. She was described as ugly, ignorant, awkward, and vulgar. One of her "friends" assured me, that a neighbouring Squire, like Sterne's Jackass with the cabbage-stalk, undecided between the extremity of his hunger and the bitterness of the food, hesitated about securing her large fortune by an union with her person and family. Some said that Mr. Turner considered her a fit match for a noble Duke, the Lord Lieutenant of an adjoining county; and others expressed a good-natured wish that she might run away with a Liverpool clerk, and so, as she was sure never to be forgiven, confound the arrogance of her father.

I was truly informed, however, that Miss Turner was a pretty, clever, unusually well-educated, high spirited, and most amiable girl; and I was thus enabled to seize every opportunity of describing her in all the colours of the rainbow. A good listener must often contradict. The Macclesfield School for Scandal, and one Sir B. Backbite in particular, found me an inappreciable audience for their stale sneers, till at last my ears rung with Miss Turner's name, and I became *her* Champion, as well as her Father's.

Still I had no thought of marrying her. I had sought, and enjoyed, the fun of talking about her and her father, because the people at Macclesfield would, with the exception of the Silk Trade, talk about nothing else, and, as I have said before, because

my high spirits had no better employment; but if I had left Macclesfield two days sooner than I did, I should in a week have forgotten Miss Turner's name and all that concerns her, as completely as I now forget how and when it was that I learned the alphabet.

But, on one of the last days of my stay at Macclesfield, I heard a discussion as to whether any "County Gentleman" would accompany the High Sheriff on his way to the Chester Assizes. This discussion ended in the expression of a general opinion in the negative. My friend, Dr. Davies, who is one of the most noble-minded persons I know, was near me at the time. I asked him, with a look and manner that begged him to say "Yes", whether he would join Mr. Turner's procession. He answered, "Yes, that I will, if it is only to shew that I do not share these people's pitiful jealousy." God knows why! -- I cannot tell -- but I exclaimed, "So will I!" A thought, a wish, a determination, just then entered my head. It was, that I would marry Miss Turner myself before the Chester Assizes, and get up such an escort for her father, as must have driven the most bilious of his detractors mad.

Nothing could appear so preposterously extravagant. All I knew of Miss Turner was, that she was at school at Liverpool. I had no chance of meeting her. Meeting her, I had no chance of persuading her to marry me without her father's consent; and his consent was out of the question, for I had made an appointment at Calais within six days from that time, and I would not allow any thing to interfere with that engagement. "What folly! what madness!" I exclaimed; and yet I could not drive the crazy wish from my head. I foresaw that, even though I should persuade Miss Turner to marry me, I should obtain, not a rich heiress, but a beggar; for I knew that she had no property in her own right, and I had heard enough of the vindictiveness of her father's temper to be almost certain that he would never forgive us. I thought of the passion of Hatred towards myself that would probably take possession of him, of the apparent impossibility of success, of the great danger of the attempt, of the world's reproaches, and of every thing that would have deterred me, had I been in my senses, from committing the act of a madman.

Still, I had not entirely lost my senses; for my determination to marry Miss Turner was clogged with three very reasonable conditions. They were, first, that I should find her to be a sort of person whom I could love and cherish for her own sake; secondly, that I should bring her to believe that she would be happy in marrying me; and, thirdly, that I would not use force, or the shadow of force, nor even put the slightest constraint upon her inclinations, in any part of the adventure.

Here was a task! To marry within three days a person of whom I knew so little, and whose knowledge of me must have been equally limited, and, (for this made the difficulties almost insurmountable,) to become pleased with her, and make her pleased with me, before even proposing marriage to her!

The apparent impossibility of the thing urged me on; and I pursued its execution with reckless activity. I formed and rejected plan after plan, till, at last, I decided on that which induced the school-mistress to give me the opportunity I desired, of conversing with Miss Turner.

My servant, who was not above half in the secret, was so frightened at the success of his own grave and unsuspecting deportment, that he made a capital blunder, by leaving me at Liverpool, and proceeding with Miss Turner towards Shrigley. She was thirty miles before me on her way towards home, before I discovered that she had left Liverpool. I followed, of course, intending, had they reached Shrigley, to drive there at once, and get my servant out of the scrape at any rate. But Fate had decreed

that Miss Turner should wait at an hotel in Manchester, close to the house of one of her favourite uncles, for more than two hours, without a sign of impatience.

On reaching the Inn, I introduced myself to her, not by telling her my name, nor, indeed, any otherwise than by saying that the carriage would be ready in a moment. I then talked of her journey, of the rain, of a curious clock which we could see from the Inn windows, and, indeed, of any thing that might prevent her asking questions for which I could have no answers.

She was not in the least alarmed, but answered me cheerfully and aptly on every subject. In ten minutes the carriage was ready. She held my arm whilst I stood in the hall talking to a Waiter, joined me in wishing the Landlady good day, and entered the carriage amidst a crowd of idle gazers, whom my hurried arrival had collected round the Inn. ..."

(The Encyclopaedia Britannica: He decoyed Ellen Turner ... from school by means of a forged letter ... (who) accompanied him to Gretna Green, where they went through a ceremony of marriage. His wife's relatives pursued them to France and persuaded her to leave him. He was tried ... convicted and sentenced to three years' imprisonment in Newgate. The marriage, which had not been consummated, was dissolved by Parliament.)

Governor Darling claims the whole of the Australian Continent for the Crown

On 1st September, 1826, George Fife Angas a person very different from Wakefield tried to organize a "Society for Promoting Christianity through the Medium of Commercial, Scientific and Professional Agency". It was to be known as "The Albion Institution". The Prospectus was signed by William Owen. On 16th September, 1826, Jeremy Bentham began his notes on colonization, which include notes, dated 23rd August, 1831, by E.G. Wakefield, on the question of profits in relation to a Plan of the Colonization Society. The Report of the Select Committee included a forty-six page plan, prepared by Mr. Eager for the conveyance and settlement of paupers in New South Wales, with the estimated costs, equipment necessary and probable produce. On 4th November, 1826, Governor Darling of New South Wales gave secret Instructions to Capt. Wright, claiming, apparently for the first time, the whole of the Australian Continent for the Crown. So the stage was set for founding the Royal Province of South Australia. It is curious that on 21st November, 1826, Francis Place noted in his Diary: "Torrens, it is evident, is playing a game in which he may not, and I hope will not, be a gainer. He admitted that he did not mean to take a manly decided part ... but to act cautiously, that is, to feel his way to some place or office." On 13th December, 1826, Place noted: "Colonel Torrens -- he is a shuffler, and we do not agree. We shall soon cut." On 27th November, 1826, he noted: "Colonel Torrens -- with whom a long conversation respecting the House of Commons. He, as usual, paltering and shuffling." In May, 1827, having been convicted, on the prosecution of Brougham, later the patron of Col. Torrens, Wakefield began imprisonment in Newgate. Brougham, "Old Wicked Shifts", had been assisted as regards Roman and Scots law by Panizzi of the British Museum, having taught Miss Turner Italian, near Liverpool. About the end of 1828, some sealers apparently crossed the Mount Lofty Ranges, thus preparing the geographical ground for colonization.

Discussing the potentialities of Botany Bay in 1803,

Sydney Smith had reviewed Collins' *Account of New South Wales* writing: "It may be a curious consideration to reflect what we are to do when it comes to years of discretion. Are we to spend another hundred millions of money in discovering its strength, and to humble ourselves again before a fresh set of Washingtons and Franklins? The moment after we have suffered such serious mischief from the escape of the old tiger, we are breeding up a young cub, whom we cannot render less ferocious ... we confess ourselves not to be so sanguine as to suppose that a young and spirited and a commercial people would, in spite of the example of America, ever consent to abandon their sovereignty over an important colony, without a struggle. Endless blood and treasure will be exhausted to support a tax on kangaroos' skins; faithful Commons will go on voting fresh supplies to support a just and

nothing but a sense of weakness deters them from drawing the sword." At all events, S.T. Coleridge, on 10th April, 1830, wrote on his copy of the book favourable comments.

It is curious that in October, 1828, the geography of Australia was so little known that William IV wrote to Lord Melville as to the danger to New South Wales in case of the discovery of superior inland navigation in Australia, stating: "There are abundant proofs of there being, either a River of the first Magnitude or a Mediterranean Sea debouching into the Indian Ocean from the interior of New Holland, somewhere in or near the neighbourhood of Roebuck Bay on the North West Coast", and advocating that a sloop of War be constantly kept cruising off the coast in case such a discovery be made, and thus prevent France or the Netherlands from sending an expedition to take possession.

In 1830, Wakefield seems to have written the *Statement of the Principles and Objects of a Proposed National Society for the Cure and Prevention of Pauperism by Means of Systematic Colonization*; Page 2 stated: "The main, indeed the sole, object of ... (Britain) in promoting colonization, appears to be two. Firstly -- to afford the greatest possible relief to the most miserable class in Britain, by enabling the greatest number of them to emigrate. Secondly -- to create the largest possible market, or as many markets as possible, for the products of British industry." Page 24 stated: "... it will still appear that the cost of creating a new Britain might be less than one year's revenue of the new people."

On 14th April, 1832, my great-grandfather, Richard Eales Borrow, as Secretary of the South Australian Association sent its Prospectus to the Colonial Office. On 4th June, 1832, with others, he signed the Petition seeking a Charter for a South Australian Colony. On 9th July, 1832, Col. Torrens sent Wakefield's draft Charter to the Colonial Office, using, probably for the first time, the word "Province". In due course, the public Meeting was held on 30th June, 1834, in Exeter Hall, in the Strand. On 15th August, 1834, Royal Assent was given to the Foundation Act for a Wakefieldian South Australian Province, with a Governor appointed by the Crown. It is little wonder that when proposals

were first made, in 1849 and 1850, for federation of the Australian colonies, Sir John Morphett and others immediately objected, claiming that the overwhelming preponderance of the larger provinces would have in the Assembly would be greatly injurious to South Australia, founded as it was on the principles of Systematic Colonization with a high price of land.

necessary war." Wakefield, in Newgate, in 1829, in his *A Letter from Sydney*, issued under the name of Robert Gouger, wrote of Botany Bay: "The Opposition consists of emancipated convicts who have attained wealth and importance ... They want Trial by Jury and a Legislative Assembly. They talk even of perfect Independence. They are rebels, every one of them, at heart; and

New Colony OF SOUTH AUSTRALIA

A Bill having been brought into Parliament under the Sanction of His Majesty's Government for founding a Colony in South Australia,

A PUBLIC MEETING

Will be held in the GREAT ROOM at

EXETER HALL

STRAND,

On MONDAY next,

The 30th of JUNE, at 11 o'Clock in the Forenoon,
For the purpose of explaining the Principles, Objects, Plan, and
Prospects of the New Colony.

W. Wolryche Whitmore,

Esq. M. P. Will take the Chair at 10 o'Clock precisely.

SEATS WILL BE RESERVED FOR LADIES.

Provisional Committee of the South Australian Association:

W. WOLRYCHE WHITMORE, Esq. M. P. Chairman.

Aubrey Beauclerk, esq. M.P.
Abraham Norradalle, esq.
Charles Haller, esq. M.P.
Henry L. Bulwer, esq. M.P.
J. Walbank Childers, esq. M.P.
William Clay, esq. M.P.
Ralph Currie, esq.
William Gowen, esq.
George Grote, esq. M.P.
Benjamin Hawes, esq. M.P.

Roland Hill, esq.
Matthew B. Hill, esq. M.P.
William Holt, esq. M.P.
John Melville, esq.
Samuel Mills, Esq.
Sir William Molwenorth,
Bart. M.P.
Jacob Montefiore, esq.
George Ward Norman, esq.
Richard Norman, esq.

G. Peckett Acropo, esq. M.P.
Dr. Southwood Smith
Edward Street, esq. M.P.
Colonel Torrens, M.P.
Daniel Wakefield, Jun. esq.
Henry Warburton, esq. M.P.
Ben. Cox. Ward, esq. M.P.
John Wilson, esq. M.P.
Joseph Wilson, esq.
John Ashford Yates, esq.

THESAURER
George Grote, Esq. M.P.

SECRETARY
Jon. Parkes, Esq.

HONORARY SECRETARY
Robt. Gouger, Esq.

Office, No. 1, JOHN STREET, ADELPHI, where every Information concerning the
New Colony may be obtained. (Through Printer, 144, Fleet Street)

PRINCE MICHEL STURDZA'S *THE SUICIDE OF EUROPE* (Part 2)

by Nigel Jackson

The Legionary Movement naturally supported the Nationalists in Spain, sending a small contingent, most of whom were slain in action. Sturdza paints a vivid picture of their return, with "peasants kneeling along the railway tracks over which passed the car bearing the caskets of Ion Mota and Vasile Marin from the frontier to Bucharest". (100)

The quality of the Movement can also be seen in Sturdza's description of the way in which it contested the 1937 election. It "did not promise anything to the electoral masses except the cleaning from Rumania's domestic life of all the corruptions and impurities that had accumulated since the end of the war and the disappearance of the Conservative Party. ... (It) reminded the voters of the sacrifices their country had the right to expect from them as Christians and Rumanians. (Its members) entered the villages in orderly formations, assembled before the local churches, knelt down and prayed, then rose and sang." (103)

On 30 November, 1937 Cordreanu issued an important public declaration: "I am against the policy of the great Western democracies. I am against the Little Entente and the Balkan Alliance. I have not the slightest confidence in the League of Nations. I am with the countries of the National Revolution. Forty-eight hours after the victory of the Legionary Movement, Rumania will be allied to Rome and Berlin, thus entering the line of its historical world-mission: the defence of the Cross, of Christian Culture and Civilization." Sturdza explains that this was a result of the two connected pacts of military assistance between France and the Soviet Union and Czechoslovakia which had been sealed a year earlier. "These new instruments of European diplomacy, and the obvious acquiescence of the established powers in Rumania to them, had suspended the Damocletian sword of a Soviet invasion over the country's very existence. ... For Codreanu, Christian Civilization and Western Civilization were one and the same thing; the thing that Germany and Italy had helped Franco in Spain to defend and save against the allied forces of the Communist parties of all European countries, and against the coalition of the Soviet Union and the Western Powers, the United States included." (26-27; 109)

In the 1937 election the Legionary Movement and its allies had won 168 seats and their opponents 191. "With total contempt for the constitutional stipulations, Carol dissolved the Parliament even before its first assembly -- an event unprecedented in Rumanian Parliamentary history. ... (Then he) entrusted the formation of the new Government and control of the new elections to Octavian Goga, the chief of the National Christian Party, which had gathered only 39 seats. ... It was ... a party of extremist rightist views and a declared adversary of the Legionary Movement." (103) Despite that, Sturdza organized an alliance between the Movement and the NCC, only to find that Carol then sacked Goga.

1938 was the critical year in which the Movement reached its greatest strength, only to be destroyed at the end by Carol and his allies. On 21 February the King suppressed the irremovability of the magistracy and established the 'legal' machinery needed to secure his planned iniquities. On 2 March he illegally dissolved

the Parliament, in which the Movement would have been the third most powerful party with 66 seats, and called to power Patriarch Miron Cristea, head of the Rumanian Orthodox Church, who formed the Government to which he entrusted the annihilation of the Movement. After the Anschluss, the process of transforming Rumania into a police state was completed. Political parties were suppressed and royal decrees were given the force of law.



Ion I Mota

Codreanu's response to this crisis may be questioned. He "felt that he had no right to expose his hundreds of thousands of young partisans to this new ordeal -- new prisons, new tortures, new assassinations. In a moving directive he ordered the general demobilization of the Movement and the end of any Legionary activities. ... He ordered them not to resist whatever iniquity or brutality might befall them. ... Also, he announced his decision to leave Rumania for a couple of years for Italy." (111-112) Was this a tactical error comparable to that of Dr. Marcello Caetano in fleeing from Portugal in 1974 after the Spínola revolt? Dr. Caetano claimed subsequently that he yielded power to avoid the bloodshed of a civil war. His approach (he was an intellectual) may be compared to that of Franco (who had become the youngest general in Europe since Napoleon well before he led the Nationalists to victory in the arduous Spanish Civil War). Franco fought; a communist takeover was averted; and we have recently seen the man he chose to be his successor, King Juan Carlos, presiding over the opening of the Olympic Games in Barcelona. Spain has now had over fifty years of stability, thanks to Franco, and has never passed fully into the hands of communism. By contrast Rumania has suffered terribly throughout that same period. Eastern tradition tells us that there are two ways, the Way of Love and

The Way of Power

the Way of Power. It is always dangerous and difficult for honourable men to enter the lists on the Way of Power, because their opponents will fight foul while they will not. It is vital, if we enter the Way of Power, as Codreanu certainly had done by founding the Legionary Movement, not to flinch from severity towards our opponents when that is called for; but such severity must, of course, be accompanied by discernment. Is it possible that Codreanu should have taken wholeheartedly to the field and staked all in civil combat (as Franco was doing with his battle-cry of 'Blind faith in victory!')? A later story given by Sturdza supports this theory. "When in July 1940 Carol, who had just yielded without a fight Bessarabia and eastern Bucovina to the Soviets, sent Prime Minister Gigurtu and Minister of Foreign Affairs Manoilescu ... to Salzburg with the mission of trying to win Hitler's favour ..., Hitler ... replied that an ideal was a beautiful thing in the life of a country, of a movement, and of a man; and as an example he gave them in minute detail the history of the Legionary Movement, ending with the assassination of Codreanu and with the following words: 'What I will never forgive your King is that it is he who forced me to change my policy toward Soviet Russia.'" (122) This suggests that, with or without an appeal for support from Codreanu, Hitler would have moved in to enable him to defeat Carol and his supporters; the protective wall against Bolshevism would have been maintained; and there would have been no need for a tactical German-Russian pact.

Codreanu was granted a passport, but then it was mysteriously confiscated at the last moment. Sturdza and others prepared a secret escape for him, which he agreed to use but then failed to use. "Leaving the country and his partisans would have seemed to him an act of desertion impossible for him to commit." (112) There followed two mock trials of the Captain, his imprisonment and his assassination. Particularly significant was the treacherous role of Professor Nicolae Iorga, apparently motivated by jealousy. "A few years before, in an editorial in his newspaper, Iorga had suggested that Codreanu wage war against the cornering of almost every market by the Jews by organizing and developing his own national trade. This is exactly what Codreanu did; and in 1938 'Comertul Legionar' was a flourishing organization with branches in every big city. But Iorga now vociferously asked ... that every Legionary shop be closed by the authorities." (113) Codreanu accused Iorga in a personal letter of 'intellectual dishonesty' and Iorga sought an indictment of Codreanu for 'offence to a high official'. A kangaroo court sentenced the Captain to six months in gaol. A second kangaroo court then framed "the so-called Legionary conspiracy" which Sturdza described as "a perfect judiciary crime". (114) No witnesses for the defence were permitted to appear after the first, whose testimony had seriously embarrassed the prosecution. More than a hundred motions for appeal or for annulment invoked by the defence lawyers were rejected by the highest courts, which also bowed before Carol's orders. Codreanu and his companions were then sentenced to long terms of prison, from which they emerged only for their assassinations, this time without even a pretence of justice.

Sturdza sets the actual assassination of Codreanu into a remarkable sequence of events. "The panic was on (among the Hidden Powers and their henchmen) when it was announced that a Franco-German pact of friendship, similar to that which had been concluded between Germany and Great Britain, was to be signed in Paris by Herr Ribbentrop himself. This was the moment chosen by the powers of darkness for sending Herschel Grynszpan,

a Jewish refugee from Poland, to the German Embassy in Paris on 7 November to kill young Counsellor Ernst vom Rath." (117) However, this murder did not have the grave consequences aimed at by those who planned it. The events of *Crystallnacht* followed; but Hitler refused to be provoked against France. King Carol, who had been a figure of fun to the British press on a previous visit to Britain, was suddenly invited to London by a "special and urgent invitation from the British Government". (118) Carol covered his tracks by visiting Hitler on the way home; but, within a few days, Codreanu and his key comrades were assassinated in the woods of Tancabesti by the King's executioners. A story was put about that they had been shot while seeking to escape; but this was demolished when their bodies were dug up over a year later and found to still have around their necks the ropes with which they had been strangled. Nevertheless, "an explosion of cheers shook the international press at the news of the Captain's murder". (118) The *London Times* and the *New York Times* both editorialised: "Well done!.. So much for those allegedly great and impartial journals!"



Horia Sima

Sturdza wondered later on if he and the Legionary Movement should not have answered Codreanu's murder by provoking war in the East "when Germany and Poland were still on the same side of the fence. ... I did not do it because of Christian scruples and patriotic uncertainties." (123) Is it possible that Sturdza and the surviving Legionary leadership were too passive at this stage?

It is even possible that Germany was also too lacking in necessary aggression at this critical moment. Sturdza reports Hitler's indignation and wrath upon learning of Codreanu's murder. Captain Weidemann, a German official, told Sturdza that Hitler had for a few days seriously contemplated sending his divisions through Hungary toward Rumania. And in *Hitler's Testament* (his conversations with Martin Bormann in the last days of World War II) Hitler is said to have expressed his regret at not having then started the war in the East, when his relations with Poland were still what they had been in the last years of Marshal Pilsndski's life. (124) Sturdza believes that Hitler was right in such a view in 1938, not his generals, who dissuaded him, and that neither France nor Britain would have gone to war then.

Armand Calinescu became Prime Minister after the death of Miron Cristea and continued the treacherous pro-Soviet policies. On 21 September, 1939 he was assassinated by nine Legionaries in revenge for Codreanu's death, over which he had presided as Minister for the Interior. Following the King's orders "more than four hundred young Rumanians were killed, sometimes in the most barbaric ways. ... The bodies of those murdered were left for days at the crossroads as in the times of Genghis Khan. ... All of the Legionaries who had been with Codreanu in the Rimnic prison, including all but one of the former fighters in Spain, were massacred in the prison yard. Two brothers of Codreanu were murdered also. ... Meanwhile the international press had only words of approbation for Carol and his murderers." (149)

**The young man of orderly thoughts,
of the broad and steady vision of a real statesman**

Codreanu's successor was Horia Sima, "the young man of penetrating eyes, of orderly thoughts, of the broad and steady vision of a real statesman". (131) He was a thirty-year-old professor of literature at the time World War II began. In the summer of 1940 King Carol negotiated with Sima and other Legionary leaders and asked them to participate in the formation of a new government. "Sima's answer ... was ... (that) only a Legionary Government could assure Rumania of the respect due to an independent country firmly determined to defend itself to the end against any aggression." (158) However, the King only offered the Movement some secondary responsibilities and freedom of the press.

At this stage the Rumanian traditionalists seem to have erred again. "The Legionary Movement, which had not yet realized the incapacity of the German leaders to recognize and evaluate the spiritual, moral and material forces in any people other than their own, had reason to believe that a new Government composed of members of the Movement would have some weight in Berlin regarding Germany's decision to refuse or to accept Italy's suggestion (of new transfers of Rumanian soil to Hungary and Bulgaria)." (159) The Movement accepted the King's offer, on condition that no further Rumanian soil be yielded without a fight. This was surely another mistake, as the Monarch's word had long been shown to be worthless. He should have been bundled out of the country or shot. As it was, Sima resigned within a few days, when the King's duplicity was apparent. Only then was the big decision made: "Nobody in Rumania doubted that the country was again on the eve of a grave decision; but nowhere except in the Legionary Movement did one observe a determination to face the decisive moment with the fortitude of those who are prepared to fight, impossible though victory might seem. The Movement decided, therefore, that Carol had to go." (159) In the first week of September 1940 a three-day Legionary revolution forced the King to abdicate and leave the country.

Sturdza emphasises that throughout this critical two-year period, and even at the moment of Carol's overthrow, Germany had continuously backed the King and not the Legionary Movement. Only twice did the Movement collaborate with the Germans during the Nazi period: "(1) The time the German Government put its system of transportation at the disposal of the Movement for the transfer to Rumania of those killed in Spain. (2) The time, nine years later during the last months of the war, when Hitler and Ribbentrop asked the Movement's leaders, those in German

concentration camps and those who were free, if they were prepared to raise again the flag that King Michael and his advisers had hurriedly hurled away." 159

Sturdza also points out that the Legionary Movement was the only Rumanian political group to ask that the Vienna Arbitration of 29-30 August, 1940 be resisted with all the nation's armed forces. Under this arbitration half of Rumanian Transylvania was given to Hungary. Military resistance would have meant war with Germany as well as Hungary. (163)

Sturdza imprisoned

King Carol, before his departure, had delegated most of his powers to General Ion Antonescu. "We accepted him," writes Sturdza, "as the most expedient and, after all, apparently unobjectionable solution (to the problem of who would be the new Head of State). ... We knew that he had been a partisan of Titulescu's foreign policy. ... We knew that (he) was a man of indisputable personal correctitude, as opposed as the Legionary Movement to the corruption and immorality of Carol's era." (167) Again the traditionalists had erred. It appears that Antonescu had a morbid jealousy of the dead Codreanu's fame, so that within six months he engineered a coup against the Movement, as a result of which Sturdza (who had been his Foreign Minister) spent the next six months in prison.

Sturdza explains that he always thought Germany should have attacked the Soviet Union a year earlier, giving up the idea of an attack in the West. "I still keep asking myself what should have happened if (war in the East) had broken out in the fall of 1940, before the nonsensical Italian campaign against Greece, which forced Hitler to send over the Danube more than forty divisions that ought to have been used on the Eastern Front, and before Antonescu's *coup d'état* against the Legionary Movement." (173) He also records his astonishment that in September 1940 Mussolini and Ciano were seeking better relations with the Soviet. "An indifference and a lack of vision in such questions of universal interest as the Communist danger are astonishing traits of the Mussolini-Ciano policy. It shows how wrong are those who equate all nationalist movements. No comparison can be drawn between the foreign policy of the Legionary Movement, which did not include any idea of conquest or oppression, and that of Fascist Italy, which was based entirely upon considerations of prestige, fame, power and aggrandizement." (181)

Sturdza defends the Movement from complicity in the murders in the Jilava Prison (of sixty-four Rumanians held for trial in connection with the assassination of Codreanu and others, on 26-27 November, 1940). "This act of violence which was contrary to the principles, the intentions and the most fundamental interests of the Movement ... could only be the work of instigators, enemies of the Movement." (202) This applied also to the murders of Professor Iorga (without whose complicity Carol and Calinescu would never have dared to suppress Codreanu) and Virgil Madgearu. The Legionaries who committed the Jilava killings were "misguided fools led by Traian Boeru, an *agent provocateur*"; they had also responded to serious provocation by an insult by the president of the enquiry into Carol's murders of Legionaries and another insult in the form of Antonescu's order to accept replacement by a military garrison. These provocations occurred just after they had exhumed the dead bodies of the Captain and his murdered colleagues. "The Legionaries' acts of violence had always, without exception, been perpetrated without

the knowledge of and contrary to the intentions of the Legionary leaders." (203-204)

Sturdza also tells (215-216) how sixty Jews appear to have been murdered on the night of 22 January, 1941 in order to discredit the Legionary Movement. This work of *agents provocateurs* occurred the day after Antonescu's putsch against the Movement. The events of 21 January are worth quoting from Sturdza's invaluable table of analytical chronology which runs for thirty-four pages before his actual book begins: "The district prefects, all Legionaries, called to Bucharest by Antonescu for an alleged conference. In the absence of the prefects, the colonels with the highest grade in each locality are ordered to occupy and take charge of the prefectures. Passive but stubborn resistance of the Legionaries. Barricaded in the buildings they are lawfully occupying, they fire over the soldiers' heads. Legionaries are killed. No Rumanian is killed or wounded. Antonescu asks for Hitler's advice and help. Hitler's answer: 'Liquidate the Movement.' The German forces in Rumania ordered to help Antonescu crush the Movement." (Ivi-lvii)

These German forces were, of course, not an army of occupation but allied troops invited into Rumania to face the common enemy of the Soviet. "Few have realized that it was the Antonescu putsch and the ease with which National Socialist Germany had once more, as she had in Slovakia and Hungary,

allowed and even helped the suppression of a Nationalist Movement (the only type of movement that guaranteed a fight to the last man in the event of a war with Soviet Russia) that had deprived Prince Paul and his Nationalist Government in Yugoslavia of their prestige and authority, and had permitted the triumph of the Simovic-Donovan-Tartaruzza foreign conspiracy." (219) This conspiracy which ousted Prince Paul in March 1941 led to the unnecessary war between Germany and Yugoslavia and the despatch of those forty-odd divisions over the Danube (which may have lost the war against the Soviet Union).

Subsequently Horia Sima and the four hundred or so Legionaries who had taken refuge in Germany were interned in Buchenwald and Dachau for two years. They were not liberated until late summer in 1944, after King Michael had effectively handed over his country as well as Antonescu to the Soviets. On 10 December, 1944 the Rumanian National Government (in exile) was formed and the Corps of Rumanian Volunteers to fight the Soviet Union established. Sturdza comments that enemies of traditional Rumania have usually been deliberately silent about "this last and heroic military effort from the history of Rumania". (263-264)

(To be continued)



DAPHNE: A Portrait of Daphne du Maurier

by Judith Cook (Bantam Press, U.K., 1991.
\$49.95 hc).

by Nigel Jackson

This extraordinarily successful writer with the unforgettably beautiful name was born in 1907 and died in 1989, having produced twenty-five full-length books and several collections of short stories in a professional career of over fifty years.

Most people remember her as the author of *Rebecca* (1938), the novel set in "Manderley" (which in fact was "Menabilly", the great house of the Rashleigh family in which Daphne lived for twenty-five years) and of which a superb black-and-white film was made starring Judith Anderson, Joan Fontaine and Laurence Olivier. It is probably that *Jamaica Inn* (1936), her first great success and currently her top-selling title, is a better work, with its memorable portrait of the bleak Cornish moors and a study of courtship worth comparison with that of *Pride and Prejudice*.

Judith Cook, herself an author with over twenty titles to her credit, was personally acquainted with Daphne, adapted two of her novels for the stage and lived in Cornwall for many years. She has written a most delightful biography, balanced, witty, penetrating and comprehensive, of this strange and introverted authoress whose greatest loves were her father Gerald (the famous actor-director who played Captain Hook in the first productions of *Peter Pan*), "Menabilly" and Cornwall.

A generous but honest portrait of Daphne's marriage to one of Britain's soldier heroes, Lt.-General Sir Frederick ("Tommy" or "Boy") Browning, is provided in a tasteful way from the first time he sailed into Fowey Harbour in search of the writer of *The*

Loving Spirit (1931), her first book, to the sad words he spoke to her on the night he died at the age of sixty-eight. In 1944 "Boy" Browning was head of Britain's airborne troops and commander of the Glider Pilot Regiment. Judith Cook chronicles much of the life of this distinguished Briton, including the disastrous Arnhem operation (about which the controversial film *A Bridge too Far* was made) and his postwar service to the Royal Family.

The Brownings had three children and all readers who love Britain will enjoy reading the intertwined life stories of these two extremely gifted, many-faceted and unusually successful Britons. Daphne did not over-rate herself. "She regarded herself first and foremost as a story-teller not a writer. 'There are people who can polish,' she would say, 'and people who cant. A really frightfully good writer like Charles Morgan can do it but if I tried, God knows what would happen!'"

Despite this self-depreciation, Daphne's achievement was more substantial than many would realise. She did original research on Sir Francis Bacon and his brother Anthony; the Shakespearean scholar, A.L. Rowse, was a close friend and admirer; and she produced a striking study of Branwell Bronte.

Judith Cook argues that several of the lesser known books, notably *Golden Lads* (1975), *The House on the Strand* (1969) and *Rule Britannia* (1972) have merits as yet inadequately acknowledged. All in all, this biography, which begins with accounts of Daphne's distinguished and less distinguished ancestors (her grandfather George was the brilliant *Punch* cartoonist and author of *Trilby* (c. 1890), whose successful career and happy marriage was the foundation of Gerald and Daphne's subsequent careers) and ends with the terrible family nemesis which afflicted Daphne in her last years, reads like a romantic tale in itself. No doubt it will soon be available in paperback.

WAR LETTERS OF FALLEN ENGLISHMEN

Introduction by *D. Thompson*

Perhaps one of the most dreadful conflicts in the whole of history took place in the early part of this century. The high water mark of what was once known as Western Christian civilisation was probably reached at some time during the late nineteenth century. By the turn of the century, spectacular advances in technological progress continued, but, perhaps almost unnoticed, the rate of moral progress had slowed.

Events like the Boer War began to signify a new barbarism that nineteenth-century gentlemen would not have contemplated. This included a new form of warfare in which the "scorched earth policy" placed civilians themselves at risk, and the British used concentration camps for the first time in modern warfare.

However, it was not until the advent of the Great War of 1914-18 that the West was abruptly confronted with a declining morality that took the form of the most dreadful waste of human life. Sometimes called the civil war of Western civilisation, the Great War also saw the establishment of an experiment in total tyranny in Russia and the Baltic countries -- the revolution, and then the establishment of the Soviet Union. This great turning-point in human history perhaps laid the foundation for the second great war only twenty years later.

The quality of the men and women who lost their lives -- on both sides of the conflict -- in the Great War was astounding. This was emphasised in August 1930, when Laurence Houseman published a volume of letters that were written by British servicemen to their families during the Great War. The first feature of this moving collection of letters is that all their authors were either killed in action, or died of wounds received in action.

Memorial to the Dead.

The second feature that becomes immediately apparent, is the age of those who died: mainly between the ages of nineteen and thirty. And the third startling feature of these particular war dead, is the extraordinary level of education enjoyed by the majority. It is this latter that sharply emphasises the immense tragedy of this most dreadful of conflicts, since it can safely be assumed that those young men of the enemy dead would have been of similar quality and character. In fact, some of them had lived and studied in Britain, and their countries shared some branches of the British Royal family. On the Roll of Honour at Oxford is the name of a German who fell in defence of his Fatherland.

Thus this remarkable book becomes something of a memorial to the dead, and a reminder that the Great War destroyed almost an entire generation of the best, brightest and bravest of the Christian West. It also formally heralded the moral decline of the greatest civilisation the world has ever seen.

War Letters of Fallen Englishmen was published only one year after another significant, but very different book was published. The American historian, George Nash, referred to this other book in an article entitled "World War I: The Dawn of Barbarism".¹

ALL QUIET ON THE WESTERN FRONT

"Nowhere, perhaps, was the perceived futility of the war more shockingly depicted than in the novel *All Quiet on the Western Front*, written by a German veteran, Erich Maria Remarque, and published in 1929. There is no glory or grandeur in this tale. It is a story of endless death without meaning. ... Remarque's novel is intended to be the *cri de coeur* ('cry of the heart') of the 'lost generation'. Critics hailed it as 'the truth about the war'. In just fifteen months it sold 3,500,000 copies in several languages -- a record without precedent in several centuries of book publishing.

"*All Quiet on the Western Front* undoubtedly abetted a wave of pacifist revulsion that peaked in the early 1930's in the principal countries that won the war. ... In 1933 the Oxford Union -- a prestigious undergraduate debating society comprising future political leaders of Great Britain -- resolved 'That this House refuses in any circumstances to fight for King and Country'. The vote precipitated a national uproar and may have encouraged Adolf Hitler to believe the British would not resist his expansionism. ...

"In 1933, only six months after the 'best and brightest' Oxford students were pledging never to fight, the new Nazi Government seized and destroyed copies of *All Quiet on the Western Front*. At the University of Berlin, it was tossed into a bonfire. As a Nazi student did so, he said, 'Down with the literary betrayal of the soldiers of the world war. In the name of educating our people in the spirit of valour, I commit the writings of Erich Maria Remarque to the flames.'"

SCHOLARS AND GENTLEMEN

The editor of *War Letters* has included the station in life of those who died, and it is obvious that they could and would have been national leaders. One of the dead was, ironically, a former President of the Oxford Union, whose members later vowed never to fight.

Others included bankers, stockbrokers, lawyers, journalists, scholars, artists, authors, poets, actors, clerics, doctors, medical missionaries, tutors, masters -- even the Nationalist Member of Parliament for East Clare. Some enlisted the day they finished their school studies, and an assessment of their schooling gives a clue to the quality of their letters. All the great British schools and universities were represented: Rugby, Eton, Harrow, Woolwich, Downside, London University, Winchester, University College (Dublin), Hailebury, Queens University (Belfast), Glasgow University, Sandhurst, Bristol Grammar School, St.

Paul's, Cheltenham Grammar, Brighton Grammar, Marlborough, Pembroke College, etc.

Again and again the graduates from the Oxford Colleges of Merton, Corpus Christie, Balliol, St. John's, Jesus, and the Cambridge Colleges like Trinity, Peterhouse and Kings are listed. The extraordinary sensitivity and scholarship of the letters makes them a poignant collection, and the evident faith of the writers leaves a lasting impact on the reader.

TYPICALLY "ENGLISH"

Whereas *All Quiet on the Western Front* conveys an almost nihilistic attitude that Western civilisation has no worth,



EXTRACTS from the *LETTERS*

Edited by Laurence Horseman (Gollanz, 1930)

Second Lieutenant Glyn Rhys Morgan Royal Welch Fusiliers. Educated Pontypridd Intermediate School. Joined Army from school. Recommended for a posthumous V.C. Killed in action, Flanders, 1 August 1917, at the age of 21. To his father. (He was killed two days later.)

B.E.F., France
30.7.1917

My dear Dad,

This letter is being written on the eve of our 'going over the top' in a big attack.

It is only because I know by this time what are the odds against returning unhurt that I write it. It will only be sent in the event of my being killed in action. You, I know, my dear Dad, will bear the shock as bravely as you have always borne the strain of my being out here; yet I should like, if possible, to help you to carry on with as stout a heart as I hope to 'jump the bags'.

I believe I have told you before that I do not fear Death itself; the Beyond has no terrors for me. I am quite content to die for the cause for which I have given up nearly three years of my life, and I only hope that I may meet Death with as brave a front as I have seen other men do before.

My one regret is that the opportunity has been denied me to repay you to the best of my ability for the lavish kindness and devotedness which you have always shown me. I had hoped to do so in the struggle of Life. Now, however, it may be that I have done so in the struggle between Life and Death, between England and Germany, Liberty and Slavery. In any case, I shall have done my duty in my little way.

Well, Dad, please carry on with a good heart, then I shall be quite content. Goodbye, dearest of fathers, good-bye E. and G. May you all reap the benefits of this great war and keep cheery and happy through life.

Your affectionate son and brother,
GLYN

War Letters of Fallen Englishmen effectively portrays the reverse. It offers a glimpse of hope almost submerged in despair, optimism in the face of the most horrible degradation, and faith amid the hell of almost total death, destruction and decay. The "Englishness" of the victims of the conflict emerges in such qualities, although not all the writers were English. They included Canadian, Australian, New Zealand and even an American soldier.

Some letters are written in the full knowledge that any chance of survival was slim for those going "over the top", and that their last letter to their family would be read after their death. Others are hopeful, despairing, defiant or humorous.

Captain Sir Edward Hamilton Westrow Hulse, Bart. Scots Guards. Educated Eton and Balliol College, Oxford. Regular Army. Killed in action, France, 12 March 1915, at the age of 25. [To his mother]

Flanders
28 December, 1914.

My Dearest Mother,

Just returned to billets again, after the most extraordinary Christmas in the trenches you could possibly imagine. Words fail me completely in trying to describe it, but here goes!

On the 23rd we took over the trenches in the ordinary manner, relieving the Grenadiers, and during the 24th the usual firing took place, and sniping was pretty brisk. We stood to arms as usual at 6.30 a.m. on the 25th, and I noticed that there was not much shooting; this gradually died down, and by 8 a.m. there was no shooting at all, except for a few shots on our left (Border Regt.). At 8.30 a.m. I was looking out, and saw four Germans leave their trenches and come towards us; I told two of my men to go and meet them, *unarmed* (as the Germans were unarmed), and to see that they did not pass the halfway line. We were 350-400 yards apart at this point. My fellows were not very keen, not knowing what was up, so I went out alone, and met Barry, one of ensigns, also coming out from another part of the line. By the time we got to them, they were three-quarters of the way over, and much too near our barbed wire, so I moved them back. They were three private soldiers and a stretcher-bearer, and their spokesman started off by saying that he thought it only right to come over and wish us a happy Christmas, and trusted us implicitly to keep the truce. He came from Suffolk, where he had left his best girl and a 3.5 h.p. motor-bike! He told me that he could not get a letter to the girl, and wanted to send one through me. I made him write out a postcard in front of me, in English, and I sent it off that night. I told him that she probably would not be a bit keen to see him again. We then entered on a long discussion on every sort of thing. I was dressed in an old stocking-cap and a man's overcoat, and they took me for a corporal, a thing which I did not discourage, as I had an eye to going as near their lines as possible. ... I asked them what orders they had from their officers as to coming over to us, and they said *none*; they had just come over out of goodwill.

They protested that they had no feeling of enmity towards us at all, but that everything lay with their authorities, and that being soldiers they had to obey. I believe that they were speaking the truth when they said this, and that they never wished to fire a shot again. They said that unless directly ordered, they were not

going to shoot again until we did. ... We talked about the ghastly wounds made by rifle bullets, and we both agreed that neither of us used dum-dum bullets, and that the wounds are solely inflicted by the high-velocity bullet with the sharp nose, at short range. We both agreed that it would be far better if we used the old South African round-nosed bullet, which makes a clean hole. ...

They think that our Press is to blame in working up feeling against them by publishing false 'atrocities reports'. I told them of various sweet little cases which I have seen for myself, and they told me of English prisoners whom they have seen with soft-nosed bullets, and lead bullets with notches cut in the nose; we had a heated, and at the same time, good-natured argument, and ended by hinting to each other that the other was lying!

I kept it up for half an hour, and then escorted them back as far as their barbed wire, having a jolly good look round all the time, and picking up various little bits of information which I had not had an opportunity of doing under fire! I left instructions with them that if any of them came out later they must not come over the half-way line, and appointed a ditch as the meeting place. We parted after an exchange of Albany cigarettes and German cigars, and I went straight to H.-qrs. to report.

On my return at 10 a.m. I was surprised to hear a hell of a din going on, and not a single man left in my trenches; they were completely denuded (against my orders), and nothing lived! I heard strains of *Tipperary* floating down the breeze, swiftly followed by a tremendous burst of *Deutschland über Alles*, and as I got to my own Coy. H.-qrs. dug-out, I saw, to my amazement, not only a crowd of about 150 British and Germans at the half-way house which I had appointed opposite my lines, but six or seven such crowds, all the way down our lines, extending towards the 8th Division on our right. I hustled out and asked if there were any German officers in my crowd, and the noise died down (as this time I was myself in my own cap and badges of rank).

I found two, but had to talk to them through an interpreter, as they could neither talk English nor French. ... I explained to them that strict orders must be maintained as to meeting half-way, and everyone unarmed; and we both agreed not to fire until the other did, thereby creating a complete deadlock and armistice (if strictly observed). ...

Meanwhile Scots and Huns were fraternizing in the most genuine possible manner. Every sort of souvenir was exchanged, addresses given and received, photos of families shown, etc. One of our fellows offered a German a cigarette; the German said, "Virginian?" Our fellow said, "Aye, straight-cut": the German said, "No thanks, I only smoke Turkish!" (Sort of 10/- a 100 me!) It gave us all a good laugh.

A German N.C.O. with the Iron Cross -- gained, he told me, for conspicuous skill in sniping -- started his fellows off on some marching tune. When they had done I set the note for *The Boys of Bonnie Scotland, where the heather and the bluebells grow*, and so we went on, singing everything from *Good King Wenceslaus* down to the ordinary Tommies' song, and ended up with *Auld Lang Syne*, which we all, English, Scots, Irish, Prussian, Wurtembergers, etc., joined in. It was absolutely astounding, and if I had seen it on a cinematograph film I should have sworn that it was faked! ...

From foul rain and wet, the weather had cleared up the night before to a sharp frost, and it was a perfect day, everything white, and the silence seemed extraordinary, after the usual din. From all sides birds seemed to arrive, and we hardly ever see a bird generally. Later in the day I fed about 50 sparrows outside my dug-out, which shows how complete the silence and quiet was.

I must say that I was very much impressed with the whole

scene, and also, as everyone else, astoundingly relieved by the quiet, and by being able to walk about freely. It is the first time, day or night, that we have heard no guns, or rifle-firing, since I left Havre and convalescence!

Just after we had finished *Auld Lang Syne* an old hare started up, and seeing so many of us about in an unwonted spot, did not know which way to go. I gave one loud *View Holloa*, and one and all, British and Germans, rushed about giving chase, slipping up on the frozen plough, falling about, and after a hot two minutes we killed in the open, a German and one of our fellows falling together heavily upon the completely baffled hare. Shortly afterward we saw four more hares, and killed one again; both were good heavy weight and had evidently been out between the two rows of trenches for the last two months, well-fed on cabbage patches, etc., many of which are untouched on the 'no-man's land'. The enemy kept one and we kept the other. It was now 11.30 a.m. and at this moment George Paynter arrived on the scene, with a hearty "Well, my lads, a Merry Christmas to you! This is d---d comic, isn't it?" ... George told them that he thought it only right that we should show that we could desist from hostilities on a day which was so important in both countries; and he then said, "Well, my boys, I've brought you over something to celebrate this funny show with", and he produced from his pocket a large bottle of rum (not ration rum, but the proper stuff). One large shout went up, and the nasty little spokesman uncorked it, and in a heavy ceremonious manner, drank our healths, in the name of his *camaraden*; the bottle was then passed on and polished off before you could say knife. ...

During the afternoon the same extraordinary scene was enacted between the lines, and one of the enemy told me that he was longing to get back to London: I assured him that "So was I." He said that he was sick of the war, and I told him that when the truce was ended, any of his friends would be welcome in our trenches, and would be well-received, fed, and given a free passage to the Isle of Man! Another courting meeting took place, with no result, and at 4.30 p.m. agreed to keep in our respective trenches, and told them that the truce was ended. They persisted, however, in saying that they were not going to fire, and as George had told us not to, unless they did, we prepared for a quiet night, but warned all sentries to be doubly on the alert.

During the day both sides had taken the opportunity of bringing up piles of wood, straw, etc., which is generally only brought up with difficulty under fire. We improved our dug-outs, roofed in new ones, and got a lot of very useful work done towards increasing our comfort. Directly it was dark, I got the whole of my Coy. on to improving and re-making our barbed-wire entanglements, all along my front, and had my scouts out in front of the working parties, to prevent any surprise; but not a shot was fired, and we finished off a real good obstacle unmolested.

On my left was the bit of ground over which we attacked on the 18th, and here the lines are only from 85 to 100 yards apart.

The Border Regiment were occupying this section on Christmas Day, and Giles Loder, our Adjutant, went down there with a party that morning on hearing of the friendly demonstrations in front of my Coy., to see if he could come to an agreement about our dead, who were still lying out between the trenches. The trenches were so close at this point, that of course each side had to be far stricter. Well, he found an extremely pleasant and superior stamp of German officer, who arranged to bring all our dead to the half-way line. We took them over then, and buried 29 exactly half-way between the two lines. Giles collected all personal effects, pay-books and identity discs, but was stopped by the Germans when he told some men to bring in the rifles; all rifles

lying on their side of the half-way line they kept carefully! ...

They apparently treated our prisoners well, and did all they could for our wounded. This officer kept on pointing to our dead and saying, "*Les Braves, c'est bien dommage.*" [French: The brave (men), it is such a pity.]

When George heard of it he went down to that section and talked to the nice officer and gave him a scarf. That same evening a German orderly came to the half-way line, and brought a pair of warm, woolly gloves as a present in return for George.

The same night the Borderers and we were engaged in putting up big trestle obstacles, with barbed wire all over them, and connecting them, and at this same point (namely, where we were only 85 yards apart) the Germans came out and sat on their parapet, and watched us doing it, although we had informed that the truce was ended. ... Well, all was quiet, as I said, that night; and next morning, while I was having breakfast, one of my N.C.O.'s came and reported that the enemy were again coming over to talk. I had given full instructions, and none of my men were allowed out of the trenches to talk to the enemy. I had also told the N.C.O. of an advanced post which I have up a ditch, to go out with two men, *unarmed*; if any of the enemy came over, to see that they did not cross the half-way line, and to engage them in pleasant conversation. So I went out, and found the same lot as the day before; they told me again that they had no intention of firing, and wished the truce to continue. I had instructions not to fire till the enemy did; I told them; and so the same comic form of temporary truce continued on the 26th, and again at 4.30 p.m. I informed them that the truce was at an end. We had sent them over some plum-puddings, and they thanked us heartily for them and retired again, the only difference being that instead of all my men being out in the 'no-man's zone', one N.C.O. and two men only were allowed out, and the enemy therefore sent fewer.

Again both sides had been improving their comfort during the day, and again at night I continued on my barbed wire and finished it right off. We retired for the night all quiet, and were rudely awakened at 11 p.m. A H.-qr. orderly burst into my dug-out, and handed me a message. It stated that a deserter had come into the 8th Division lines, and that the whole German line was going to attack at 12.15 midnight, and that we were to stand to arms immediately, and that reinforcements were being hurried up from billets in rear. I thought, at the time, that it was a d---d good joke on the part of the German deserter to deprive us of our sleep, and so it turned out to be. I stood my Coy. to arms, made a few extra dispositions, gave out all instructions, and at 11.20 p.m.

George arrived. ... Suddenly our guns all along the line opened a heavy fire, and all the enemy did was to reply with 9 shell (heavy howitzers), *not one of which exploded*, just on my left. Never a rifle shot was fired by either side (except right away down in the 8th Division), and at 2.30 a.m. we turned in half the men to sleep, and kept half awake on sentry.

Apparently this deserter had also reported that strong German re-inforcements had been brought up, and named a place just in rear of their lines, where, he said, two regiments were in billets, that had just been brought up. Our guns were informed, and plastered the place well when they opened fire (as I mentioned). The long and short of it was that absolutely *nixt* happened, and after a sleepless night I turned in at 4.30 a.m., and was woken again at 6.30, when we always stand to arms before daylight. I was just going to have another sleep at 8 a.m. when I found that the enemy were again coming over to talk to us (27th Dec.). I watched my N.C.O. and two men go out from the advanced post to meet, and hearing shouts of laughter from the little party when they met, I again went out myself.

They asked me what we were up to during the night, and told me that they had stood to arms all night and thought we going to attack them when they heard our heavy shelling; also that our guns had done a lot of damage and knocked out a lot of their men in billets. I told them a deserter of theirs had come over to us, and that they had only him to thank for any damage done, and that we, after a sleepless night, were not best pleased with him either! They assured me that they had heard nothing of an attack, and I fully believed them, as it is inconceivable that they would have allowed us to put up the formidable obstacles (which we had on the two previous nights) if they had contemplated an offensive movement.

Anyhow, if it had ever existed, the plan had miscarried, as no attack was developed on any part of our line, and here were these fellows still protesting that there was a truce, although I told them that it had ceased the evening before. So I kept to the same arrangement, namely, that my N.C.O. and two men should meet them half-way, and strict orders were given that no other man was to leave the lines. ... I admit that the whole thing beat me absolutely. In the evening we were relieved by the Grenadiers, quite openly (not crawling about on all fours, as usual), and we handed on our instructions to the Grenadiers in case the enemy still wishes to pay visits! ...

1. Published in *Imprimis*, the journal of Hillsdale College in the U.S.A.



Christmas Greetings

May the wondrous blessings of Christmas be with on you, and stay with you all, in the richest sense of family through all the days to be, both near and far. To all our readers we wish a joyous Christmas and a healthy and fruitful New Year.

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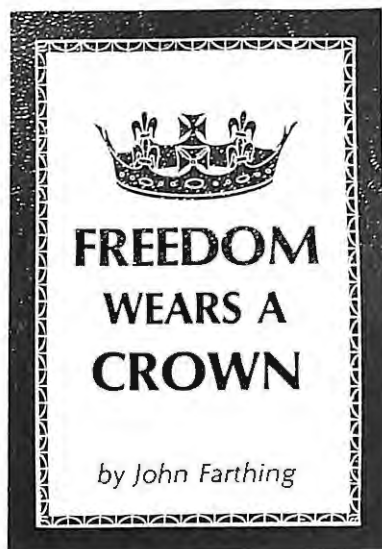


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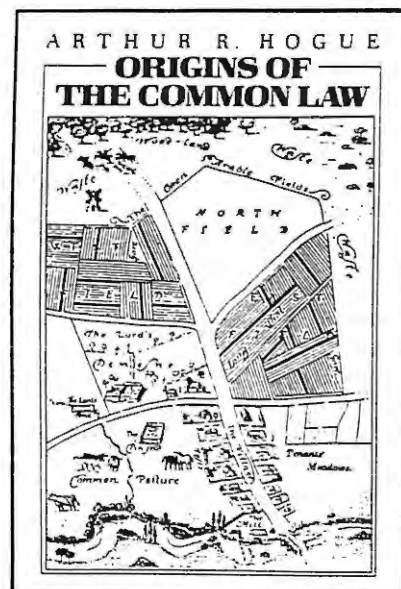
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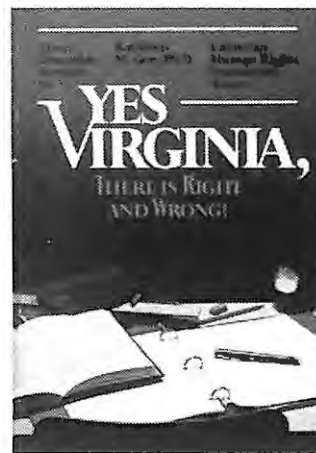
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