

Democracy

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against verdicts given by Cantonal Tribunals and Commercial Courts. Cases connected with the Code of Obligations and Commercial Law go to the first Civil Division while the second Civil Division deals with cases connected with the Civil Code, i.e., Personal and Family Law, Code of Intestacy and Property Rights. In addition it also deals with converging matters of Civil Law such as for instance Railway and Motor Traffic liability, Patent rights, etc. — The Code of Obligations deals mainly with the contractual obligations of Purchase, tenancy, lease, work, transport and service agreements. When for instance a merchant has delivered goods too late, thereby causing the buyer to incur a loss, the latter can, if the amount involved is at least Frs.4,000, take the matter up to the Federal Tribunal. The Commercial Law also includes the Company Law and particularly also the Law dealing with Limited Companies. In connection with the Family Law, I would mention divorce and guardianship cases. Under the Law of Intestacy are included cases dealing with the disinheritance of ungrateful children by their parents, etc. — Associated with property rights are actions over rights of way, water rights, annoyance caused by noise or chemical odours from neighbouring properties, etc. —

The Criminal Court of Appeal attends to pleas of nullity against cantonal sentences. When, for instance, a verdict of murder has been pronounced by a Cantonal Court and the accused pleads that it is not a case of murder but one of manslaughter, i. e., that the act was not premeditated but occurred spontaneously in the excitement of the moment, he can appeal to the Federal Tribunal. If the appeal succeeds, the verdict is suspended and the Cantonal Court instructed to pass a milder sentence. As you know, the right to pardon a criminal or offender does not belong to the Courts, this can only be done by the National assembly or in some cases by the Cantonal Councils.

Besides the main four Divisions already mentioned, there are also in existence a board of control and appeal court, a debtors' prosecution and bankruptcy court and also various criminal courts for serious offences against the security of the State or public order.

The Federal Tribunal is the guardian of the uniformity of Justice for the whole Country both in Civil and Criminal Law. It sees to it that cases coming under the same Law are not judged differently in Mendrisio than in Basle or more severely in Rorschach than in Geneva. Moreover, it is not only the keeper of the unity and uniformity of the Law but the guardian of the Law in general and the custodian of the Legal State. Its functions have certainly not become any easier during recent years, particularly since the beginning of the war. The far-reaching events which have been taking place all over the world and whose amazed witnesses we all are, have not left the Swiss administration of Justice altogether unaffected. We will hope, however, that the confidence which the Swiss people generally place in the Federal Tribunal will remain fully maintained.

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The above is reprinted by courtesy of the "Verlag Hans Huber, Bern" which has published in pamphlet form a number of highly instructive lectures delivered recently over the Berne Radio by prominent Swiss statesmen. A foreword by Fed. Counc. E. Celio recommends this manual to every Swiss; it is entitled "Was jeder Schweizer wissen muss" and can be obtained at the price of Frs.2.80 (on the return of normal conditions).

DEMOCRACY.

(The original of this article has appeared in the "Schweiz Industrieblatt," of November 6th, 1943, from the pen of Walter Diethelm, Wabern, and the English translation has been kindly sent to us by Mr. C. Mayr.)

We often hear it said nowadays that after the war we cannot simply start again where we left off in 1939. What is to be altered: whether these people all want to alter the same things and alter them in the same way, whether they want to alter themselves or only the others is not made clear. But one thing will be agreed by the large majority of our people: The democratic construction of our State must not be shaken and in that case we must also uphold certain fundamental principles.

Democracy means government of the people by the people. It is the kind of order selected by the people and governs the relations of each citizen to the other and to the community. The realisation of Democratic Government requires:

1. Respect for the rights of the individual by the community; that is to say the granting to him of the utmost freedom for spiritual and material development within the frame of the laws.

2. Voluntary submission by the individual to the laws approved by the community, and voluntary sacrifice by the individual for the benefit of the community.

3. The Constitution is the expression of the will of the people concerning their way of life. It is the mirror of the attitude of the people, the product of a healthy blending of tradition, actuality and anticipation for the future. The Constitution is a plant which has its root in the past, is fed in the soil of the present and is kindled by the light of the future. It must be respected by each generation and protected from the vicissitudes of momentary whims. It should only contain general principles and not details as to the way in which the principles should be applied.

4. The government elected by the people must see to it that the principles laid down in the constitution are observed by all, including themselves.

5. Each member of the community is jointly responsible for the continuance of the State. The young are to be educated in this sense. The elected members of the government are to be respected, but it is the proud right of the citizen to exercise control. Each citizen, even the highest, must be able to accept the truth.

6. Each citizen must realize that man is imperfect and that also his communal creation, the State, must be imperfect to the extent to which the citizens themselves are imperfect. From this arises the demand that each who wishes a more perfect order should first examine himself critically and make himself more perfect.

7. The citizen must in all discussions with others bear in mind that individuals are different. Nature has willed it so. No system will succeed to mould each citizen permanently into a uniform standard of perfection. The result would sooner or later be disintegration. Democracy demands from citizens not enforced, but voluntary co-operation, decency, mutual understanding and willingness to compromise. Let us beware of rigid dogmatizers and fanatics of any creed whatever.

8. The members of a democratic community must

strictly watch that other members who may harbour thirst for power, are discovered and neutralized in good time. The people must instinctively distinguish between a citizen who is ready to co-operate in an elected government, and an autocrat intent upon giving free rein to his impulse. Democracy gives to its elected governors not power, but responsibility.

9. The most important thing in the State is *Man*, and the most important thing in man is his soul. Consequently, those measures which relate to the promotion of spiritual values should have first place. Actually it is the body, or the material side which stands in the foreground.

How should the economy in a democracy be organised? Surely in this way that to each individual the utmost spiritual and material development within the written and unwritten laws is vouchsafed, but in no case so, that the State should control to the smallest detail the life of the citizen according to "scientific methods."

There is to-day in many circles a current against the man who earns his living by his own efforts. And yet, it is just this man, "large" or "small," who is the real fighter, who has to bear the consequences of his own actions or omissions, and who gives to the life of the community constantly a new impulse. Of course, he must not think of himself alone, but, in his own interest, all his actions and deliberations must be consistent with the welfare of the community.

This class, which includes the business man, the farmer, the doctor, the lawyer, the artist, in fact all except the functionaries of the State, constitutes the opposing force against the tendency to inflate the State apparatus. This class also includes employees who are independent of the apparatus of the State. If the national economy were to be organised on the lines of a State, or State-co-operative, then no system, however well meant, could prevent the simultaneous transfer of State functions as well as economic functions upon one and the same person, and the originally free community in which the Executive Government and Legislative control were neatly separated, would, perhaps slowly, but all the more surely, become a bureaucracy in which there would only be State employees but no longer any free citizens.

Inherent in the democracy, there is apparently a certain heaviness which gets on the nerves of the impatient ones, especially in eruptive times. As against that, there is no other system which, for decades ahead, offers so much protection against mistakes of individuals and, consequently, against catastrophes which can throw whole nations into misery.

LETTER-BOX.

Swiss Club. — Capetown. We appreciate very much your complimentary remarks and feel somewhat "conceited" to hear that the S.O. gives you a better and more regular news service from home than you are obtaining in a direct way. Your present subscription will lapse with our issue No.1043.

F. S. — We are delighted to hear that our original article about the Swiss Parliament in our last issue has interested some of your English friends. We quite agree that an English translation would have enhanced its value but like everybody else we are suffering from manpower. However, we have a similar contribution in the present issue in the English version which a well-wisher has kindly supplied to us.

SWISS MERCANTILE SOCIETY.

The Annual General Meeting of the Swiss Mercantile Society (Limited by Guarantee) was held at Brown's Hotel, Dover Street, on Saturday, February 12th.

Over sixty members were present at the luncheon preceding the meeting. They were welcomed by the President, Mr. J. J. Boos, who was in the Chair.

The Swiss Legation was represented by Monsieur E. de Graffenried, Commercial Attaché, who takes a keen interest in the activities and welfare of the S.M.S.

In opening the formal proceedings, the Chairman announced with regret that several of the older members who rarely missed such an important occasion, were unable to be present.

The Secretary, Mr. J. J. Schneider, read the notice convening the meeting and the report of the auditor.

The accounts for 1943 were presented and elucidated by Mr. Percy H. Green, F.C.A., the auditor. He was able to show that the Society's financial position is a sound one, although the year under review closed with a loss. The Chairman at this juncture informed the meeting that after great efforts, National Councillor Ph. Schmid-Ruedin had been able to obtain a Government subsidy for the S.M.S. in respect of the year 1942 and also a promise for a subsidy to cover the loss in 1943. This gratifying news was warmly applauded by all present. A motion to adopt the accounts as presented was carried unanimously and a hearty vote of thanks accorded to Mr. Green, who takes more than merely a professional interest in the Society.

The main item on the agenda was the Chairman's report on the Society's 55th year of activities, a résumé of which is given below:—

Introduction. During the year under review, war has again come much nearer to our homeland, with blockade and counter-blockade almost strangling the economic life of our country. We have to be grateful that Switzerland has been spared the horrors of actual warfare and it behoves us to be mindful of the wisdom and foresight of our Swiss leaders, the watchfulness and steadfastness of our army and the loyalty of the population. The devotion and work of our people to succour the sick, prisoners of war and refugees of all nations are facts we Swiss abroad can justly proclaim.

For the S.M.S., the year 1943 has been one of useful work in social and partly educational directions.

Membership. The Society to-day is composed of:—

- 249 Active Members,
- 23 Honorary Members,
- 56 Contributing Members and Donors,
- 8 Admissions during the year,
- 4 Resignations.

The admission of eight new members is gratifying, seeing that there is no influx of new members from Switzerland.

News has been received of the death on January 7th, 1944, of the late Central President, Mr. Alfred Gubser, who, in consideration of his outstanding services to the S.K.V. in general and to the London Section in particular, was elected an Honorary Member of the S.M.S. in 1941. He led our association with foresight, tact and success for seven years. He will be remembered by many of our members as the leader of the delegation from Headquarters on the occasion of