

Last year, on April 24, the then newly appointed Trade Union Royal Commissioner Dyson Heydon gave the Acton Lecture on Religion and Freedom at the Centre for Independent Studies titled *Catholic Resistance to German State Persecution: Lessons for Modern Australia*. It was published on the blog of the journalist Andrew Bolt eight days later where Bolt referred to it as “brilliant”.¹

Mr Heydon had earlier given an almost identical version for the Michael O’Dea Oration at the University of Notre Dame on September 5, 2013.²

The speech discusses the legacy of Clemens August Graf von Galen, the Bishop of Münster from 1933 – 1946 and how his opposition to Catholic persecution by German authorities carries lessons for contemporary Australia. Mr Heydon’s discourse on von Galen was clearly laudatory.

An examination of the scholarship concerning bishop von Galen confirms that he did indeed resist specific elements of Nazi rule, most notably their persecution of Catholic clergy and the domestic euthanasia program. Such resistance to the Third Reich should certainly be viewed in a positive light. However there is another aspect of von Galen’s behavior during the Nazi period that calls into question his character and by extension that of Mr Heydon. The bishop was a wholehearted and passionate advocate for the invasion of the Soviet Union, preaching on September 14, 1941 against “the Judeo-Bolshevik rulers in Moscow (who) have taken great pains to start fires not only in Germany but in all of Europe”. If these words seem familiar that is because Hitler originally spoke them on June 22, 1941 – the day of the invasion.³

Not only was the invasion of the Soviet Union inexorably linked with the Holocaust, the anti-Semitic canard of “Judeo-Bolshevism” was one of the Nazi’s central justifications for the Holocaust.

In case one might think von Galen’s views on both Jews and German military aggression were merely a reflection of the heightened emotions of the war years - although that in itself would be enough to condemn von Galen - they predate the war by at least several years.

In a June 1935 sermon Bishop von Galen claimed that “Israelites debased the Saviour.”⁴

And on March 7, 1936, upon the remilitarisation of the Rhineland, an event instrumental in Germany’s march to war, von Galen sent a telegraph welcoming supreme army commander Werner von Fritsch, “in the name of true German Catholics” and that German soldiers on the Rhine were symbols of renewed German honour.⁵

But von Galen was not just an advocate for a war that resulted in 26 million deaths or the program of remilitarisation during the 1930s that made such a war not only possible but highly probable. After the German surrender in 1945 he was also an early denier of the extent and horror of the Holocaust, denouncing the Nuremberg tribunals as defamatory “show trials”.⁶

¹ “Dyson Heydon on the new racism of the intellectuals”, accessed 26/08/2015, http://blogs.news.com.au/heraldsun/andrewbolt/index.php/heraldsun/comments/heydon_dyson_on_the_new_racism_of_the_intellec_tuals/

² “Former High Court Judge Dyson Heydon AC QC Addresses Young Law Students, 18 September 2013”, accessed 31/08/2015 <http://www.nd.edu.au/news/media-releases/2013/230>

³ Beth Griech-Poelle, *Bishop von Galen: German Catholicism and National Socialism*. (New Haven: Yale University Press, 2002) 107-108 **Primary Source:** “Hirtenbrief v. Galens”, September 14, 1941, ed. Löffler, no. 235, 589-590, from Peter Löffler, ed., *Bischof August Graf von Galen: Akten, Briefe und Predigten, 1933-1946*. Vols 1-2. Mainz, 1988

⁴ Griech-Poelle, *Op. Cit.*, 108, **Primary Source:** “Predigt v. Galens,” June 23, 1935, ed. Löffler, no. 113, 247, *Op. Cit.*

⁵ Griech-Poelle, *Op. Cit.*, 111, **Primary Source:** “Galen to Fritsch, March 8, 1936, ed. Löffler, no. 158, 357-358, *Op. Cit.*

⁶ Griech-Poelle, *Op. Cit.*, 134, **Secondary Source:** Michael Phayer, *The Catholic Church and the Holocaust, 1930-1965*. (Bloomington: Indiana University Press. 2000)

When SS Generalmajor Kurt “Panzer” Meyer was facing war crime charges for the execution of Canadian POWs, von Galen made pleas on his behalf.⁷ Meyer's death sentence was commuted to life imprisonment, out of which he served 10 years. In his memoirs, Meyer bragged about his relationship with von Galen:

“My unit was quartered at Salzbergen and I was staying at the vicarage. It was there on 1 May that I got to know the well-known Bishop Graf von Galen, who would plead for my life a few years later and would draw my judges' attention to the principles of Christian-based justice. Graf von Galen insisted upon giving my company his blessing.”⁸

Why von Galen thought it appropriate to make such gestures to a man who was said to have personally executed 50 Jews near Modlin, Poland, in 1939 as well as having ordered the mass murder of villagers in the Soviet Union on numerous occasions is inexplicable.⁹ Such advocacy should surely disqualify von Galen as the subject of a laudatory speech or at the very least should require an unequivocal caveat. To not do so indicates either that Mr Heydon was unaware of von Galen's behaviour or that he chose to omit this information.

The former is possible, but unlikely. There are but a handful of dedicated works on von Galen of which Beth Griech-Poelle's *Bishop von Galen: German Catholicism and National Socialism* is the most prominent within English language scholarship. Published by Yale University Press and drawing heavily from the primary sources in their original German, her claims regarding von Galen's anti-Semitism and German nationalism are supported in numerous reviews of her work in numerous academic journals. Even the most perfunctory research into von Galen would have uncovered these facts. Mr Heydon's speech was erudite and well-constructed. It should not be alleged that he is ignorant of the period in question. He is a notable student of history as well as a distinguished jurist. Therefore, he would have had ample time and resources to consider, select, and research his topic.

The later, if true, would mean Mr Heydon knowingly held up a man who was complicit in history's most shocking crime as an exemplar of moral virtue. A man who denied the holocaust even after incontrovertible proof had been produced. A man whose inaction in regards to the deportation of Münster's Jews, despite being in a unique position to do so, should have disqualified him as the subject of a speech titled *Catholic Resistance to German State Persecution: Lessons for Modern Australia*. To hold von Galen up as an example of heroic resistance to the Nazi regime is to devalue the sacrifice of truly commendable Catholic clergymen like Pastor Bernhard Lichtenberg and Father Alfred Delp who were both executed for their anti-Nazi activity.

Mr Heydon concludes his speech by drawing direct comparisons between Nazi euthanasia programs and assisted suicide advocacy in twenty-first century Australia. While assisted suicide is a complex issue and it is important to respect what decent and thoughtful people on both sides of the debate say, such a comparison is clearly obscene.

It is of extreme importance to keep this a separate matter from the controversy surrounding Mr Heydon and the Trade Union Royal Commission. Tragedies of the magnitude of the Holocaust should not be used as grist for partisan politics. However, due to both – Mr Heydon's position as a prominent public official, as well as the continuing significance of the Holocaust and World War II – Mr Heydon owes the Jewish and Eastern European communities of this country, as well as the Australian people

⁷ Kurt Meyer, *Grenadiers: The Story of Waffen SS General Kurt "Panzer" Meyer*. (Mechanicsburg, PA: Stackpole Books, 2005) 379. Von Galen's correspondence is as follows:

“According to information provided to me, Generalmajor Kurt Meyer has been sentenced to death because his subordinates committed crimes which he neither ordered nor tolerated. As a representative for the Christian understanding of justice, according to which each human being is responsible only for his own actions and can only be punished for the same, I accordingly support Generalmajor Meyer's petition for clemency and ask the sentence be commuted. - Clemens August Graf Galen”

⁸ Meyer, *Op. Cit.*, 10

⁹ Anthony Beevor *D-Day: The Battle for Normandy*. (London: Viking Penguin, 2009) 181

in general, an explanation as to why he chose to devote two enthusiastic paeans on such a morally corrupt individual as bishop von Galen.

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