PART II

The Lapse of a Policy

CHAPTER 12

The Call of the Wild

"BRITISH Seize Ruhr Industries." On December 18, 1945, this headline appeared on front pages in the United States. British military government had taken over the coal and steel industries. Some sixty directors and managers of the coal syndicate, United Steel, Good Hope, Mannesmann and Klöckner were in jail as part of a clean sweep to start the reorganization of Ruhr heavy industry.

I saw the headlines as I boarded a plane at Chicago, heading for Washington to prepare for return to Germany. Since late September I had been in the United States to consult with the State and War Departments on plans for ending the "concentration of economic power" in Germany. Now I had been asked to transfer to the War Department as director of the Division of Investigation of Cartels and External Assets, a new agency set up by General Clay at Berlin in October.

Late Thursday afternoon, December 20, after completing routines and forms, I started out of the Pentagon expecting to spend Christmas in Chicago. General John H. Hilldring, director of the Civil Affairs Division, met me in the hallway within sight of the exit. "Hello! When are you off?" he said.

"They tell me they expect to start processing the papers the day after Christmas, and I should be able to leave about January 15."

"The hell you say!" he roared. "Come on into my office." And to his executive officer: "Colonel, now, what's all this about taking three weeks to get Mr. Martin to Berlin? Who's in charge of this case?"

"I believe Colonel Forney will be handling it, General," said Colonel Laux.

"I want him in here tomorrow morning at seven-thirty to give me a full explanation of this proposed delay! General Clay was on the phone this morning and asked when Mr. Martin was coming."

The next afternoon, after a day of racing through corridors behind jet-propelled army officers, I began forcing my way through the crowds that jammed airports, railway stations and every conceivable mode of transportation. The first "peacetime" Christmas was turning into a nightmare of confusion for everyone. "Peace on Earth" was in every shop window, while men of good will tore each other to pieces trying to get on trains.

At LaGuardia airport, the crew of the C–54 looked glum as they prepared to spend Christmas in Newfoundland; but an hour out of New York the pilot detected something wrong, and back we went. After one more try, the crew went off for a forty-eight-hour leave, and another crew took over. Again we went up, found difficulties and returned. "No more flights until the day after Christmas" was the announcement. Most of the passengers melted away fast. I asked to see the commanding officer, told him of my embarrassment at seeing two colonels chewed up on my account, and mentioned General Hilldring's ultimatum.

Two hours later, in a new plane, with five other passengers and some mail sacks, we were over Boston and heading for Stephenville, Newfoundland. For the first time in a week I had a chance to sit still and think about the job ahead. I would be stopping first at London for a few days to have some conferences at the British Foreign Office, then going to Berlin to report to General Clay.

The reason for the proposed stop at the Foreign Office was that the British contingent at Berlin was already blocking four-power agreement on reorganization of the German combines. This made no sense in view of the abrupt action the British government had just taken to seize the Ruhr industries. True, representatives of the new Labor government had reached an understanding with the State Department at Washington on the terms of a law that would define and prohibit "excessive concentration of economic power" in Germany. But Sir Percy Mills was still in charge of economic matters for the British at Berlin, in spite of the change of governments at the July elections. Sir Percy was vetoing proposals of the French, Russians and Americans, and even talking back to his own Foreign Office.

It was difficult to see why the British element at Berlin, in spite of directives from London, was blocking the deconcentration of heavy industry instead of striking a new balance between heavy and light industries in Germany. We already knew that certain amounts of coal, transportation, communications, power, machinery and equipment would be needed to keep chinaware, leather goods, textile, food-processing plants, and the like in a good state of repair and operation. Then it was necessary to decide what kind of materials should be produced for export so as to pay for imports of food and raw materials. That should be settled by finding out what kinds of products would be easy on coal and transportation and the other weak spots. What kinds of things would use domestic raw materials instead of imported ones, especially if the imports would be expensive? Instead of answering such questions, Sir Percy and his staff seemed to assume that German industry should again produce whatever it had produced before and during the war. This attitude ignored both the facts of war damage and the policies of postwar adjustment.

The position assumed by Sir Percy Mills on behalf of his group in British military government showed a striking parallel with the attitude we had encountered in our own Economics Division back at Bushy Park. It was the revival of an argument that was supposed to have been settled many months before so far as official American policy was concerned. Nothing was being brought up in the new arguments over Germany that had not been thoroughly canvassed by the executive departments and by congressional committees at Washington during the war. In the end, all these discussions and arguments had been codified into a coherent plan. President Roosevelt had turned to Secretary Hull at a cabinet meeting in August 1944 to ask whether our government had settled upon definite measures for dealing with the cartels and the "excessive concentration of economic power" in Germany. Stripped of State Department phraseology, Secretary Hull's reply was "No." President Roosevelt then said it was about time the matter was finally settled, and he appointed a cabinet committee consisting of the Secretaries of State, Treasury, War and Navy to prepare and submit an over-all scheme.

Almost at its first meeting, this cabinet committee split over ways of meeting two requirements for a satisfactory settlement of Germany's future place in Europe, namely: 1) that the European economy as a whole must be highly productive; and 2) that Germany's future place in the European economy must not let Germany dominate or control Europe from a military, political, or economic standpoint.

The basic heavy industries in other parts of Europe had been reorganized into a position of dependence upon the industries of Germany. Some said that one way to end German control would be to uproot the basic heavy industries of Germany, rebuild new heavy-industry centers in other parts of Europe, eliminate German financial control and management of industries outside of Germany and finally let Germany build its economy around agriculture and light or consumer-goods industries. German financiers and industrialists who had been concerned largely with planning and consolidating their controls over the European economy would have to be removed, since it was precisely their kind of economic planning which was not wanted.

Proposals along these lines were prepared in the Treasury Department and put forward by Secretary Morgenthau. Parts of these proposals were too drastic and showed too little concern for the economic needs of Europe as a whole. Some of the details of the Morgenthau Plan leaked to the press. Bedlam broke loose.

The War Department seized the opposite horn of the dilemma and focused attention exclusively on quick German economic recovery, with only perfunctory attention to "prevention of future military activity," or to the economic balance of the rest of Europe. Ignoring completely the fine points of how German finance and industry had been able to control the entire European economic system, these proposals stressed rapid and "efficient" industrial recovery. The War Department prepared a draft of a handbook to be issued to military government officers. This proposed handbook followed the view of the Economics Division of the U. S.

Group Control Council at Bushy Park, leaving out all consideration of reform in the basic shape of the German economy.

President Roosevelt became furious when he saw a copy of the proposed War Department guide. He sent a stiff letter to Secretary of War Stimson, instructing him to call in all copies and impound them, and to find out who had been responsible "all the way up and down the line." The President said, "It gives me the impression that Germany is to be restored just as much as the Netherlands or Belgium, and the people of Germany brought back as quickly as possible to their pre-war state. . . . There exists a school of thought both in London and here which would, in effect, do for Germany what this Government did for its own citizens in 1933 when they were flat on their backs. I see no reason for starting a W.P.A., P.W.A. or a C.C.C. for Germany when we go in with our Army of Occupation. Too many people here and in England hold to the view that the German people as a whole are not responsible for what has taken place — that only a few Nazi leaders are responsible. That, unfortunately, is not based on fact."

Two documents finally settled the controversy. The first was a directive issued in April 1945 by the Joint Chiefs of Staff and addressed to the American commander in Germany. This document, known as JCS 1067, was kept in a top secret classification until October 17, 1945. If it had been released for study, most of the wrangling over the Morgenthau Plan would have been unnecessary. Pending final Allied agreements, this directive provided that rebuilding of heavy industries, including iron and steel, chemicals, nonferrous metals, machine tools, radio and electrical equipment, automotive vehicles, heavy machinery and components, should be kept to a minimum. Conversion of facilities to the production of light consumer goods was to be encouraged. All possible measures were to be used to restore transportation services and public utilities, repair and construct housing, produce coal, and do anything else necessary to prevent starvation, disease or serious unrest among the German civilian population.

The exclusion of Nazis from office and from important positions in industry and public life was explicit.

All members of the Nazi Party who had been more than nominal participants, and all active supporters of Nazism or militarism, were to be removed from important positions in private enterprises as well as in government. No such persons were to be retained in any of the listed categories "because of administrative necessity, convenience or expediency." At least it was clear that our forces went into Germany with the idea of digging out the members of the Himmler Circle and their friends from their cozy quarters in the substructure of Europe's economy.

The directive also gave special attention to the concentration of economic control:

> You will prohibit all cartels or other private business arrangements and cartel-like organizations . . . providing for the regulation of marketing conditions, including production, prices, exclusive exchange of technical information and processes, and allocation of sales territories. Such necessary public functions as have been discharged by these organizations shall be absorbed as rapidly as possible by approved public agencies.
>
> It is the policy of your government to effect a dispersion of the ownership and control of German industry. To assist in carrying out this policy you will make a survey of combines and pools, mergers, holding companies and interlocking directorates and communicate the results, together with recommendations, to your government through the Joint Chiefs of Staff. You will endeavor to obtain agreement in the Control Council to the making of this survey in the other zones of occupation and you will urge the coordination of the methods and results of this survey in the various zones.

The second document that settled the controversy over postwar policy was agreed upon by the heads of the Big Three at Potsdam on August 2, 1945. It was known as the "Potsdam Agreement."

The joint conference of the Big Three at Potsdam in July and August occurred at a peculiar turning point in European history. The British conservative coalition of the war period had been upset by the Labor party victory in the July elections. Prime Minister Attlee replaced Winston Churchill as British representative midway in the Potsdam conference, and Ernest Bevin replaced Anthony Eden as Foreign Minister. The British conservative view of German

industry had been like that held by our War Department in the first sessions of the cabinet committee in Washington. Now the change of governments at London replaced the top negotiators. But the rest of the British delegation at Potsdam was still composed of Tories who shuddered at the very thought of upsetting the prewar relations between British and German heavy industry. Looking at German industry from a quite different point of view, the Soviet delegation was preoccupied with the devastation of territories and industries in Russia. They wanted, first and foremost, to assure a very large amount of reparation from Germany, and were less concerned about the rest of Europe.

Thus it was the task of the American delegation to produce an agreement that would assure a productive European economic system and redistribute the balance of economic power in Europe so that Germany and German industrialists could not resume a dominant position. The Soviet urge for quick reparations had to be curbed. Indiscriminate reparations, including reparations taken from current industrial production, might rebuild an undesirable concentration of plant capacity in Germany, even while lowering the standard of living of the German working population to a depression level. On the other hand, the British conservative urge for re-enactment of the Düsseldorf Agreement of 1939 had to be blocked, too. Retention of the combines and the old German financial and industrial arrangements could give the Germans too much control even though plant capacity was cut down.

Politically, the Potsdam Agreement provided that the reorganization of government in Germany should be directed towards "the decentralization of the political structure and the development of local responsibility." The same principle was applied to German economic institutions. The agreement provided that "at the earliest practicable date, the German economy shall be decentralized for the purpose of eliminating the present excessive concentration of economic power as exemplified in particular by cartels, syndicates, trusts, and other monopolistic arrangements." It went on to direct that "In organizing the German economy, primary emphasis shall be given to the development of agriculture and peaceful industries." The industries that had served as a medium for centralizing power in Germany were the ones that had become overdeveloped. By throwing the emphasis on a more balanced German economy, the new plan could end the consumer-goods shortage which had been an incitement to looting of other countries, and make it impossible for any clique of elite guardsmen in striped pants to mobilize the German population for such a purpose.

The decentralization of power meant delegating the work of organizing production onto a broader base, throwing responsibilities to a greater variety of people operating under common policies or principles. Germany, during the period of occupation, was to be treated as a single economic unit, in the sense that common policies were to be established, with modifications to suit varying local conditions. The common policies were to govern: a) mining and industrial production and allocations; b) agriculture, forestry and fishing; c) wages, prices and rationing; d) import and export programs for Germany as a whole; e) currency and banking, central taxation and customs; f) reparation and removal of industrial war potential; g) transportation and communications.

The Potsdam plan was far from a sweeping "de-industrialization." Measures to build up a productive economy were to be taken immediately. The occupation authorities were instructed to take steps promptly: "a) to effect essential repair of transport; b) to enlarge coal production; c) to maximize agricultural output; and d) to effect emergency repair of housing and essential utilities." Payment of reparations was to leave enough resources in Germany so that the people could live without an American WPA. The German people were to be given "the opportunity to prepare for the eventual reconstruction of their life on a democratic and peaceful basis."

These constructive steps had a double purpose. Far from removing machinery from the coal mines and closing them, the plan called for the greatest possible coal production. But at the same time it would make no sense to enlarge coal production if Germans were allowed to reopen too many of their coal-hungry heavy and synthetic industries. Repair of the wobbly transport system would not mean much if, at the same time, the Germans rebuilt too many of the complicated industries that employed cross-shipping of intermediate products back and forth across the country in the course

of production. For many similar reasons, the attempt to maintain detailed central administration of great networks of interconnected companies was discouraged.

Constructive plans for the control of Germany had to put emphasis on transportation and fuel because these were the parts of the German economy which the air forces had picked for a quick knockout blow. In spite of any popular impression that German industry as a whole had been knocked out, these were the two weak points. The United States Strategic Bombing Survey had found that German industry was in operating condition except for coal supplies and transportation. Up till April 1944, the 421,656 tons of bombs dropped by the Allied strategic air forces did not even take the starch out of the German economy. The Survey concluded: "Neither the direct effects of the attacks, nor the indirect effects resulting from the drain on manpower and materials, were significant. In 1943, the basic industries were not yet strained by the demands of war production and marginal reductions in the output of basic materials had no effect on war output. The most that can be said is that, without the raids prior to the spring of 1944, the basic industries might later on have been somewhat less pressed to meet the increased requirements of the armament and reconstruction programs."

In the six months from April to September 1944, another 757,364 tons of bombs were dropped, with heavy emphasis on transportation facilities and oil production and storage installations. These targets alone took 336,590 tons with the remaining 420,774 scattered in "area bombing" of cities and miscellaneous industrial targets. This bombing brought a two-thirds reduction in the supply of finished oil products, and an even greater reduction in aviation gasoline, as against the over-all average of one fifth for all industry.

After September 1944, there was a still greater concentration on transportation and oil targets, for a total of 578,261 tons dropped on these installations out of the grand total of 830,959 tons for the period. This finale brought the so-called "collapse" of the German economy. The Bombing Survey concluded that the continued attacks on oil had prevented reopening of oil facilities, and that the heavy bombing of transportation in the Ruhr and Rhineland had slowed production of coke and steel and reduced power production. The Survey report added: "It seems clear that the devastating blow to basic materials was dealt by the strategic and tactical attacks on transportation facilities primarily in and about the Ruhr area." The transportation attacks cut off coal shipments. Since Germany was far more dependent on coal than most other industrial countries, the collapse of coal shipments "had decisive effects which were felt throughout the entire economy, even in transportation itself. In the first quarter of 1945, the shortage of coal set the limit to the operation of the German economy, and the lack of transportation facilities set the limit to the supply of coal."

The policies agreed upon at Potsdam were not only in line with the policies worked out by our own government at Washington, but they had another important advantage. Even in the event that we could not get the agreement of the other powers on practical steps to carry out these policies, still there were constructive moves that could be carried out in our own zone. It was untrue, as some newspapers had claimed, that in the division of zones we got only the scenery, while Britain and France got the industry, and the Soviets the breadbasket. Actually, of the eighty-five combines that dominated most of German industry, thirty-four had the head office and principal place of business in the British zone, nineteen in the Soviet zone, five in the French and twenty-seven in the American. Furthermore, the greater number for the British zone was offset by the fact that most of them were in coal, iron and steel, whereas those in our zone covered the greatest variety of industries, and included some of those most involved in international cartel deals.

These facts about the situation in Germany were already part of the background I had to consider as our plane crossed the North Atlantic. Now that the JCS 1067 directive and the Potsdam Agreement had settled the American position, I thought the one serious obstacle standing in our way would be the attitude of the British. But I soon got forewarning of more trouble ahead. In the waiting room in Keflavik, Iceland, were two of my colleagues in military government, General McSherry, former head of SHAEF G-5 and now director of the Manpower Division at Berlin, and Fred

Winant, director of Trade and Commerce and brother of the wartime ambassador to England. They were westbound for Christmas leave.

General McSherry greeted me with the news that I had been "abolished." The Cartels Division had been disbanded the previous week. Some functions relating to German assets abroad had been transferred to the Finance Division. But a new organization known as the Decartelization Branch was to take over the remaining duties of the Cartels Division, some of the duties of the Legal Division, and all of the I.G. Farben Control Office. The new branch in turn, along with four other divisions, Industry, Food and Agriculture, Trade and Commerce, and Reparations, had been swallowed up by the very large Economics Division, headed by Brigadier General William H. Draper, Jr.

Fred Winant added the news that civil service regulations had just descended upon the military government organization, so that in addition to the usual military red tape, it was now necessary to "describe" all jobs in each division and branch according to civil service procedures. While Army officers perspired over organization charts, job descriptions, and rules for behaving like a lifelong bureaucrat, civilian directors were sweating over tables of organization, "201" personnel files, staff studies, concurrences, passes, travel orders. In the meantime efficiency experts from Washington were having a field day.

When the westbound plane left we were still waiting for weather clearance from London. I sat down to digest the fill-in I had just been handed on Berlin, and then began to read a New York newspaper for Sunday, December 23, that I had picked up at LaGuardia but had not yet opened. In a statement datelined Washington, December 22, Senator Kilgore charged that certain military government officials were countenancing and even bolstering Nazism in the economic and political life of Germany. He went on to say that these officials "take the position that German businessmen are politically neutral and that no effort should be made to penalize German industry or prevent it from recapturing its prewar position in world markets. . . . They look forward to resuming commercial relationships with a rehabilitated German industry whose leading figures are well-known to them, rather than to striking out on new paths of economic enterprise." The Senator mentioned, in particular, General Draper; Rufus Wysor, president of Republic Steel Corporation and head of the Steel Section under General Draper; Frederick L. Devereux, retired vice-president of an American Telephone & Telegraph subsidiary and General Draper's deputy; and Colonel Pillsbury, my predecessor as control officer for I.G. Farben. "Nazi industrial organization is not repugnant to them and they have shown every disposition to make their peace with it." I recalled Graeme K. Howard's book, *America and a New World Order,* and our previous encounter with him at Bushy Park.

I had with me a bulletin issued by the Department of State on April 2, 1945, making public some documents found in Germany. These documents contained plans prepared by the Nazis for a future bid for power, based on their industrial holdings and wealth concealed abroad. Among other things they had planned to appeal to the courts of various countries, through dummies, who were to protest the "unlawful" seizure of industrial plants, patents, and other properties by alien property custodians. If these moves failed, they planned to repurchase the properties through friendly cloaks and dummies.

These were things that could be tested. If Germans had spirited away several hundred million dollars, as reported, to furnish a nest egg for propaganda campaigns and other operations, we ought to be able to detect actual results.

Another part of the German plan, according to the State Department, was to have German technicians and other experts secure positions abroad to circumvent the expected bans on military research and development in Germany. Such people were to be made available at low cost to industrial firms and technical schools in foreign countries. It was also thought that German help in the construction of modern technical schools and research laboratories could be offered on favorable terms, to afford Germans an opportunity for designing and perfecting new weapons. The bulletin went on to say that one immediate aim of this German program would be to soften up the Allies through a plea for "fair treatment" of Germans; and to secure the removal, as rapidly as possible, of

Allied control measures. The program was to provide for a rebirth of German nationalist doctrines and give the German inner circle new bases of operation.

We arrived at London the afternoon of Christmas Day; and on Thursday, December 27, I went with Theodore Achilles, First Secretary of the Embassy, to the Foreign Office. We met with William Ritchie and two others of the staff of the Honorable John Hynd, Chancellor of the Duchy of Lancaster, in charge of German occupation affairs. It soon became obvious that someone in our Economics Division at Berlin not only disagreed with the official Washington policies on cartels and combines, but also had communicated that disagreement to Sir Percy Mills and others in the British element.

Negotiations had been under way for two months between the State Department and the Foreign Office to break the deadlock over the "decartelization law" at Berlin. Mr. Achilles and I pressed for a firm note from London to Sir Percy Mills. Instead of agreeing, Mr. Ritchie told us that we had better get our own lines straight, since the position we were taking did not coincide with that held by our own Economics Division at Berlin. We pointed out that the State Department at Washington and not the Economics Division at Berlin fixed American official policy; but the British group turned this aside and pressed their advantage for all it was worth.

Following this setback, Mr. Achilles and I prepared to move to a "line of retreat" that had been suggested by the State Department in the event that negotiations threatened to break down. This "line of retreat" would be to suggest that, pending agreement on a legal definition of "excessive concentration of economic power," we should agree to prepare a list of German combines that were in any event clear and obvious cases of the type of economic concentration that had to be cut out. Actually it was the British group, in the end, that suggested some such solution; and I prepared to leave for Berlin to undertake the negotiations on this new basis.

At this point a heavy fog settled on England and the continent, holding all air and channel transportation fogbound for several days. It was an appropriate comment on our progress to that date.

CHAPTER 13

The Hollow Squares

TURNING Berlin into a seedbed of democracy through the instrumentality of a military organization was, to say the least, an ambitious project. After my first introduction to the setup as a going concern in January 1946, I thought ambition should be made of sterner stuff.

General Clay's Office of Military Government for Germany (U.S.) occupied a former Luftwaffe headquarters. On Saturday mornings a panorama of the individuals and problems that made up the core of American military government was assembled in General Clay's conference room. Four long, polished tables arranged to form a closed hollow square occupied the center of the room. Around this hollow square sat the thirty-two men who constituted the top staff and who headed the offices and divisions of military government. For two hours, General Clay talked with each of us, proceeding clockwise around the table, hearing reports of progress or failure in four-power negotiations or in the execution of policies in the United States zone.

In another part of the American sector of Berlin was another building, this one full of conference rooms, each with its hollow-square table. The building, splendid in its park setting, where the four powers set up their Allied Control Authority, was a former court of commercial justice. It was now the seat of a strange kind of international government. At the top of the ACA was the Control Council, composed of the four military governors, whose word was law. Next was the Co-ordinating Committee, the four deputy military governors, who decided what matters to pass along to the Control Council for final approval. Then there were the directorates,

corresponding roughly to the executive departments of a government, and in each case made up of the four directors of the appropriate division. The directorates, in turn, delegated specific duties to various committees and working parties.

To establish a "democratic" basis for Germany's future, General Clay ordered the staff of military government to turn the execution of most policies over to "the Germans themselves." We were to restrict ourselves to giving advice to the Germans, and "observing" the results. If we did not like what we observed, our complaints had to be forwarded through military channels.

Before the occupation was a year old one could begin to observe that when the "Germans themselves," meaning the top echelons of the German administrative agencies, liked the advice they were given, they followed it. When they did not like the advice, there were difficulties. One could also observe that advice tending toward the re-establishment of the old patterns was well liked. Advice that smacked of reform was distasteful.

By drift and by an inner logic of military organization, military government was moving from its role as an enforcer of reform policies to the role of a trustee or custodian of German "recovery," and moving along lines well charted in the habits of past generations. Back in the Ruhr, in May 1945, I had seen how the commanding general of the corps area would crack the whip because his divisions were not getting the streetcars running and the rubble cleared fast enough. The sense of being responsible for the welfare of the people transcended directives that would have required this responsibility to be turned over to Germans.

Now, at Berlin in 1946, under General Clay's order that responsibilities should be turned over to "the Germans themselves," it was the reform policies that were being thrown first to German administrative bodies. The directors of divisions watching over repair of transport, reopening factories, re-establishing telephone lines, allocating coal and other scarce materials, clung tightly to the programs they had mapped out and offered arguments for delays and exceptions.

One Saturday morning in February 1946, General Clay discovered from the report of the Public Safety Branch that the Transport

Division had secured exemptions for several thousand Nazis working as supervisors on the railway system. The argument was that if the Nazis were removed the trains would stop running. This report confirmed a charge which had appeared in several unfavorable press dispatches from Germany. General Clay's eyes snapped an electric spark across the hollow square to the offending division director. He ordered all the Nazis removed by the following Wednesday, whether the trains ran or not.

The Nazis were removed and the trains still ran. But the next week it was something else of the same kind; and the next, and the next. The net effect was that while parts of the military government organized boys' baseball leagues, parent-teacher associations, and leagues of women voters, and pasted strips of paper over the swastikas in school textbooks, top Nazis and Nazi supporters who think democracy ridiculous moved into the key positions in the economic and administrative life of Germany, or were never thrown out.

Getting rid of Nazis or finding something useful for ex-Nazis to do had been a spectacular proposition ever since the time, shortly after V-E Day, when General Eisenhower relieved General Patton of his command for saying that the difference between Nazis and non-Nazis in Germany was like the difference between Republicans and Democrats in the United States. But the Nazis were only a surface phenomenon compared with the deep-seated and persistent mania of the Germans for centralizing authority and concentrating power. That the mania was not alone a German one may be gathered from what happened when the four occupying powers, the United States, Britain, France, and Russia, tried to agree on the text of a law to end what the Potsdam Agreement called the "excessive concentration of economic power" in Germany.

The matter had been taken up officially for the first time at the second meeting of the Co-ordinating Committee of the Allied Control Authority held at Berlin on August 17, 1945, with General Clay in the chair. The Co-ordinating Committee had decided as a first step to draft a control council law to govern the process of economic decentralization. A few days later, at the third meeting on August 21, General Clay presented for consideration a draft law

which would have set up a four-power Commission for Economic Decentralization. The commission would be empowered to investigate and to order the dissolution of enterprises or the termination of contracts having a restrictive or monopolistic effect. Under this law, contracts or other arrangements in restraint of trade would have been declared illegal, and excessive concentrations of economic power in the form of cartels or combines would have been prohibited. The Co-ordinating Committee could not reach an agreement and referred this draft to the Economic Directorate for study.

In the Economic Directorate, the Soviet representatives on September 12, 1945 offered a counterproposal. The principal difference was that instead of leaving it in the hands of a commission to determine for itself in each case what constituted excessive concentrations of economic power, this law would have defined large concentrations in terms of certain standards of size. The enforcing agency would have the right to grant exemptions if there was evidence that the exemptions were necessary and would not defeat the purposes of the law. The Economic Directorate agreed to use the Soviet proposal as a basis for discussion and referred the draft to a working party for detailed consideration.

At this point a serious hitch developed. The new text proposed to establish definitions of the practices and the types of corporate structure that were to be considered illegal. This became known as a "mandatory" type of law. The British objected to a "mandatory" law and proposed instead to set up an administrative tribunal with power to investigate and make its own rules and regulations. From the standpoint of American policy, there were two objections to the British "nonmandatory" conception. In the first place, unanimous agreement of the four powers would be required to take action in any particular case; whereas, if the law itself defined certain standards, subject to certain exceptions, unanimous agreement would be required to make an exemption. In the second place, a nonmandatory law would violate American notions of constitutionality, because such legislation would not tell the German businessman in advance what was illegal and what was legal. The enforcing agency would make up the rules of the game as it went along.

During the discussions of the draft law Sir Percy Mills, the British member of the Economic Directorate, had made no secret of his strong opposition to any law that would do more than establish an administrative tribunal, proceeding case by case, and by unanimous vote. He had insisted, of course, that his government agreed with the purpose of the law "in principle." At the meeting of the Economic Directorate on September 27, Sir Percy had stated that he could not consider the proposed draft as if it were to be a law, because only the Legal Directorate could draft a "law." On October 5, the Economic Directorate forwarded its draft to the Legal Directorate to be rewritten in legal form.

For the next two weeks it had been anybody's guess whether the higgling over theoretical legal points was a genuine disagreement, or whether the proceedings were being deliberately stalled by delaying tactics. Wide differences in the constitutions, statute laws and legal practice of the four occupying powers made a month's delay in settling a legal point not an unusual occurrence. But in this case, we had noticed in the cables coming to Washington from Berlin that Sir Percy Mills's grounds for objecting shifted from time to time. We had noticed also that he was constantly driving for an arrangement with the broadest grounds for making exceptions, and one requiring a unanimous vote before anything at all could be done. This meant that if we hoped to do more than put ink marks on paper, the agreement at Berlin, whatever its form, must start some action that could be stopped only by unanimous consent; and not the other way around.

On October 24 the British objections were the subject of a transatlantic conference by teletype between Berlin and Washington. General Clay, along with Ambassador Robert Murphy, his Political Adviser; and Charles Fahy, head of the Legal Division; Laird Bell, Chicago attorney representing General Draper from the Economics Division; Russell A. Nixon, acting director of the Division for Investigation of Cartels and External Assets; and several others at Berlin, discussed the question of a "mandatory" as against a "nonmandatory" law with representatives of the State Department and other government agencies at Washington. The instructions from Washington were clear that the American policy called for a "mandatory" law, in the sense that some definition should be

included to indicate what types of power concentrations were considered illegal. Though Berlin should have wide discretion in negotiating the precise content of the definition, the enforcing agency must not be left with arbitrary power to pick and choose what things to hit and what to miss. In view of the objection of the British representative, who rejected even the idea of trying to work out definitions of "excessive concentration," the State Department said it would negotiate directly with the Foreign Office in an effort to overcome the British opposition.

By November 27, 1945 the negotiations at Berlin had reached a stalemate in the Co-ordinating Committee. At that time the United States, French and Russian representatives were in agreement on a draft law that conformed with the statements of United States policy and the specific directives from Washington.

The British veto put the matter temporarily on the shelf. It was still there when I arrived at Berlin in January 1946, after the conferences at the Foreign Office in London. When I took over the job at Berlin and read the back files of what had been happening since September, it became clear that the deadlock had not been due entirely to British opposition. During the negotiations, Mr. Bell and others from our Economics Division had continued to work out "compromises" with the British and had dealt informally with the French and Russian representatives in an effort to get them to make compromises which Sir Percy Mills would accept. This crosscurrent had gone on even after the teletype conference of October 24 in which the official American policy was made clear. The negotiations had fallen into an almost hopeless muddle with the Economic Directorate holding to the British view, and the Legal Directorate to the American. There the argument rested.

As I went over the papers before reopening negotiations, I realized that not all of this had been a tempest in a teapot. The wrangling, on the surface, was childish; but the future of the big combines in the British-held Ruhr lay in the background. Certain phrases in the Düsseldorf Agreement of 1939 began to take on a new meaning. The Federation of British Industries had felt at that time that Hitler's occupation of Czechoslovakia made no difference to the soundness of the collaboration program with the

Reichsgruppe Industrie. Hitler's march had merely "created a situation which, while it lasts, has made further progress impossible."

Now that British troops held the Ruhr, was "further progress" possible? In the Düsseldorf Agreement, the British and German groups had said that their objective was "to ensure that as a result of an agreement between their industries unhealthy competition shall be removed."

Looking back on this agreement after the war, the point was not that industries in Britain and Germany had eliminated competition among themselves, but that they had done so as part of a new "way of life." Private industries were to arrange markets to suit their own convenience, and then enlist the help of their governments to beat down opposition. A particular enemy was the antitrust legislation in the United States, which stood in the way of this new form of private world government. As the men at Düsseldorf had put it: "The two organizations realize that in certain cases the advantages of agreements between the industries of two countries or of a group of countries may be nullified by competition from the industries in some other country that refuses to become a party to the agreement. In such circumstances it may be necessary for the organizers to obtain the help of their governments and the two organizations agree to collaborate in seeking that help." This provision had been so evidently aimed at the United States, whose industries could not legally join in such a scheme, that the head of the British Board of Trade, Mr. Oliver Stanley, was questioned on it in the House of Commons on March 21, 1939. His reply had a double meaning. He said, "There is nothing in this agreement intended to be or that would be in conflict with the interests of American industry."

Now the British element at Berlin, under Sir Percy Mills's direction, was plugging for enough exceptions to make possible a revival of the German cartels and combines under other names. The argument was that the combines in heavy industry should be kept intact so as to make it easier to "nationalize" them. Sir Percy, a hard-bitten Tory, was talking like a socialist, as though he favored public ownership of industry. It was centralization of power he was after. Sir Percy was battling to retain certain focal points of economic

power, especially in the Ruhr, to help the British position in international trade. For that, he seemed willing to risk setting the German juggernaut loose again. In the background was the need to make Britain independent of dollar loans. Before Lend-Lease came to the rescue in the early stages of the war, practically all British foreign investments had been liquidated to supply the British Treasury with foreign exchange, especially dollars, for military supplies. Now we could expect some desperate gambles on the revival of German power as Britain tried to write the Declaration of Independence in reverse English.

The wrangling and cross-purposes in the American element at Berlin likewise were not just word battles. Soon after I arrived I was asked to attend a meeting of all branch and section chiefs of the Economics Division, to explain the policies and program of my new branch. We met around the hollow table in General Clay's conference room. My explanation was greeted with a chorus of objections, especially from men like Rufus Wysor, former president of Republic Steel Corporation, who was then head of the Steel Section in the Industry Branch. These objections were not directed merely at my proposed program, but at the whole policy of reorganizing the German cartels and combines. All findings of the wartime investigations were rejected as though we had learned nothing. The argument started from the very beginning. "What's wrong with cartels, anyhow?" "Why shouldn't these German businessmen run things the way they are used to?" "What proof have you that any of these agreements ever restricted any production?" "German business is flat on its back. Why bother them with all this new stuff?"

Given a little time, it is not hard to meet arguments of the "What's wrong with that?" variety. The question was how to do it at Berlin, in five-minute snatches, when dealing with people who felt no hesitation about rejecting official policies, and who claimed to have no knowledge of the things on which the official policies had been based. For one thing, the documentation to back up the policies was in thousands of volumes of testimony, government reports, and court records in the United States. At Berlin, where we were supposed to execute policy, not make it, we had only the documents one could carry in a brief case or send by pouch. Mr. Oliver Stanley had been right when he told the House of Commons in 1939 that there was nothing in the Düsseldorf agreement "that would be in conflict with the interests of American industry," if we were to judge by the men from American industry who staffed our Economics Division.

After the first barrage of questions from General Draper's assembled branch and section chiefs, I knew that this was to be a job requiring patience. The fact that the gentlemen of our Economics Division found it easier to agree with Sir Percy Mills than with the policy of the Washington government was not an isolated phenomenon. We could expect difficulty on every kind of economic reform. The director of the Federation of British Industries had been quoted in the London *Times* on his return from the Düsseldorf conference of 1939 as saying that "Their talks in Germany were conducted in a very friendly spirit, with the great desire on both sides to see the other man's point of view." I wondered whether I could look forward to meetings around the hollow squares in Berlin with gentlemen who would show "a great desire to see the other man's point of view."

CHAPTER 14

Reducing Exercises

THE slogan that Sir Percy Mills used as a battle cry in the arguments at the Economic Directorate in Berlin was that "great size alone is not excessive concentration of economic power." His favorite dictum was that passing a law against certain practices or certain types of corporate organizations was the same as convicting the German companies of a crime. He was fond of combining the two ideas and exploding with the question, "Is it a crime to be big?"

This kind of argument served very well in four-power negotiations. Because of language difficulties, it was never possible to express complicated thoughts without the greatest difficulty. A short, sharp challenge which begged three or four questions was a good way to throw any discussion into the wildest confusion. One was always forced to remember that four languages were being spoken: English, French, Russian and American. Even with perfect translation by all the interpreters, there was still too much time lag for any complicated rejoinder to be effective. With average translation by the interpreters it required constant practice to speak simply and to be accurate.

Before we undertook to prepare an answer to Sir Percy on the question of whether or not it was a "crime" for a German combine to be too big, we had some matters to get straight within the confines of our own military government organization. Differences within General Clay's own Economics Division over the interpretation of the directives were so violent that some of the branch and section chiefs had reached the point of incoherence.

I found that in the months I had been away, my two predecessors had, in turn, become involved in sharp disagreements with

General Draper and his staff in the Economics Division. Colonel Bernstein had resigned in October 1945. Russell Nixon, who followed Colonel Bernstein as acting director of the Cartels Division, had resigned on December 15, 1945, at the time of the reorganization that made the new Decartelization Branch a part of the Economics Division.

In one of my first talks with General Draper, I found that the investment banker's view was uppermost. He was fundamentally opposed to the idea that the cartels and combines required immediate reorganization, and was convinced that the "experienced German management" had to be retained. He considered Colonel Bernstein and Mr. Nixon impetuous, if not ruthless, in their constant pressure for action to replace the old Nazi and Nazi-supporting managements and to reorganize the big companies. To start on a fresh footing, I said that I believed the question of how to go about eliminating the cartel system and reorganizing the German combines should be accepted as part of the whole economic program. General Draper disagreed. In his view, the war, the bombing, the division of Germany into zones, and the fact of the occupation itself, meant that the cartels as such no longer existed and that the combines were "flat on their backs." There was no need to take action in these first years of the occupation beyond enacting a law to declare certain practices illegal in the future. The current economic program should be one of economic recovery. Until the German economy was in a "reasonable" state of operation, it would be unnecessary, and in fact harmful, to undertake "drastic" reforms. Therefore a program to eliminate "excessive concentration" was not to be an important part of the immediate plan.

I countered by citing two specific booby traps that had shown up in my first talks with General Draper's branch and section chiefs. First, it was expected that a reparations program would take certain surplus industrial plants out of Germany. The way in which these plants were selected could have an effect on the shape of the future German economy. If the plants belonging to the few independent industrial firms were removed, while those belonging to the large combines were left intact, the degree of control left to the management of the large combines would be increased. Second, the Industry Branch and certain appointed German authorities were jointly handling the allocation of coal and other scarce raw materials to industrial plants. Under General Clay's order, this authority was to be turned over more and more to the Germans. The power to allocate was the power to withhold. If materials were allocated to plants of the big combines and withheld from plants of independent firms, the proportionate power of the combines would be increased. If materials were allocated for the revival of the heavy industries and withheld from the light industries, the resulting economic balance would be the opposite of what we wanted.

The allocation authorities were already withholding materials from plants which were expected to be removed as reparations; so that even though plants of independents might not be removed for some time, the effect of letting combine-owned plants get further ahead of the independents in material allocations would be the same as actual dismantling and removal. I suggested that the Decartelization Branch should work with the Industry Branch on interpretations of the reparation and allocation policies, since reforms of this kind would have to be built in from the beginning. They could hardly be carried out at some future date, after Germany's industrial plant had been rebuilt according to another blueprint. General Draper did not concur. He held that if we "decartelized" the big combines properly, there would be no difference between industrial plants owned by the combines and those owned by independent firms. There would be no need to "discriminate."

At the end of these conversations, I felt like a doctor confronted with a patient who weighed three hundred and sixty pounds, who was too big for his own good, and who was always stepping on the toes of innocent bystanders. General Draper was saying that if I "reduced" the patient properly, there would be no need to change his weight, shape, or size, or to take any fat off him. Also, once we had him properly "reduced," it would not be necessary to take any special steps to stop him from tramping on other people.

Echoing the "recovery first, then reform" idea, the other branches of the Economics Division promptly made it clear that they did not want advice on the relation between the cartel policy and their particular operations. That could wait until later.

The control of I.G. Farben plants, however, and the disposal of these facilities, was a requirement that could not wait for a period of "reform" after Germany had "recovered." By order of the Control Council in its Law No. 9, approved in November 1945, the I.G. Farben plants had already been seized, the bank accounts impounded, and the old management ousted. Those plants which were to be given up as reparations had to be selected. Plants having only a wartime use had to be picked out and dismantled. Plants that were to reopen under new management had to have managers. Scientific research in the Farben laboratories had to be supervised to prevent further work on new military weapons.

Here again I had something to learn. As Control Officer of I.G. Farbenindustrie, despite the language of the Control Council's order I was not actually to carry the responsibility for executing Law No. 9 in our zone. I must immediately delegate many functions to other branches over which I had no control. I found that the Industry Branch was to make the selection of plants to be shipped as reparations, dismantled, or reopened, and to pick the persons "qualified" to operate the reopened plants. Another branch was to control scientific research. Still another branch had custody of the impounded funds and responsibility for preventing unauthorized dissipation of the assets. By military theory all responsibility rested on the shoulders of the commanding general, and everyone else was an adviser only. Stripped of special military language, then, my job was to sit with the French, British and Soviet control officers and try to arrange a plan for final disposition of the I.G. Farben properties. Meanwhile, with the help of a small staff, I was simply to observe what the Germans and the other branches of military government did with the property.

In the same way, my over-all job as head of the Decartelization Branch was to try to get British, French and Soviet representatives to agree on the text of a law to prohibit the "excessive concentration of economic power" in Germany, while assembling a staff of lawyers, economists and investigators to make recommendations through General Draper to General Clay on any steps we might

think necessary. On matters of initiating reforms we were to follow the military rule that the man at the top took all the blame and had all the say. The written orders from Washington meant whatever the commanding general at each level said they meant. What he said, in turn, depended on what his staff furnished him as proposals to be approved or rejected. But when it came to criticism of orders from Washington, we discovered that army officers were protected by the "civilian" rights of "free speech" instead of being subject to the military formula that "orders is orders."

We soon found that the decartelization law negotiations were not the only ones in which violent divisions of opinion existed within the American headquarters. The same kind of thing had been happening to the arguments over the economic unification of Germany and the level of heavy industrial production. The physical plants of German industry, except for spectacular but superficial damage to the buildings, had come through the bombing and fighting very largely intact. After the fighting it was lack of transportation and coal that kept the plants closed. The United States Strategic Bombing Survey showed that the temporary stopping of production was quite different from "destruction." Actual destruction of physical plants had amounted to some 15 or 20 per cent of the expanded wartime capacity. The rest of the machines and equipment could operate if they had coal to burn and transport to bring raw materials.

Under the Potsdam Agreement as much of the coal as possible was to be fed into light or consumer-goods industries. These were the ones to be encouraged in postwar Germany, and the ones of which Germany had few enough to begin with. On the other hand, there was the heavy-industry concentration of the Ruhr that the industrialists of the 1920's had deliberately cut off from its former balance with the heavy industrial areas of French Lorraine. The proposal, then, was to take some of the heavy-industry plants out of the Ruhr, where they could not hope to have coal and iron ore for years to come. This excess equipment was to be used to restore heavy-industry areas in France, Belgium and other countries which had been the victims in Germany's economic war. The principle was clear, but the details had to be worked out.

The first steps in working out the details were the four-power negotiations that started in the Economic Directorate in the fall of 1945 and concluded with the Level of Industry Agreement of March 29, 1946. The path to this agreement was not strait and narrow. The American and British elements were working toward a restoration of the Ruhr as a center of economic power. Both elements brushed aside the German labor unions and joined forces with the industrialists. The Soviets preferred the political arena where numbers count and they might hope to gain support from organized labor, which was being so pointedly ignored by the Americans and British. The failure of the American and British elements to make any overtures to middle-of-the-road labor groups is still one of the unexplained phenomena of the occupation.

The French position was fairly clear. Even though the French had not themselves been a party to the Potsdam negotiations, they had a great deal to gain and nothing to lose by a straightforward execution of the part of the Potsdam Agreement that dealt with reparations and the level of German industry.

The British position was a little more complicated. The British held the Ruhr. At home Britain was short in raw-steel capacity. If they allowed steel production to rise in France and remain low in Germany, British experts felt that their chances of getting their hands on raw steel for the British processing industries would be remote. Whoever has raw steel — in this case it would be the French — wants to process it. If the British were to get new supplies of raw steel for their processing industries, they would have to build steel plants in Britain; or, since they were in control of the Ruhr, they could hold out for enough surplus steel capacity to supply their additional requirements, as well as German needs. Sir Percy Mills plugged for two things: a high rate of steel production, and authority for the zone commander, in this case the British commander, to interpret and carry out agreed four-power policies. There were to be no "international" commissions or controls if they could be avoided. International agreements on the level of generalities, yes. But international interpretation and applications, no.

The Soviet position was peculiar in another direction. The Russians wanted reparations out of Germany, either in the form of industrial plants or of finished products. They began packing and shipping factories almost as soon as the shooting stopped in 1945. But then trouble developed. Many of the factories proved useless in their new setting, which was an economic desert. The scorched-earth policy had left none of the satellite industries that are needed to supply special equipment and services to a big plant. A large part of I.G. Farben's "Leuna works," the synthetic-gasoline plant near Leipzig, was packed up and shipped eastward in August 1945. Before many months, however, the carloads of equipment from Leuna were being shipped back again and put into operation on the original site.

This situation led to a sharp disagreement. The Russians attempted to designate some plants as reparations, but operate them in their original location in Germany. The other powers held this to be a violation of the reparations policy. The reason given at first was that taking "reparations from current production" would leave a dangerously large number of industrial plants inside Germany. That it was a mistake to leave the Germans with a large industrial potential to pay reparations had been one of the great lessons of the other war. But by the end of 1946, the cry against reparations from current production was to be based not so much on the danger of industrial potential in Germany, as on the fact that it would subtract from the total goods available to the German population. That would force the United States and Britain to import materials into Germany at their own expense to help support the Germans.

Another point where Russian policy crossed with the others, and with British policy in particular, was in the matter of international control. The British and Russian forces had their respective reasons for wanting to retain independent authority to interpret agreed policy in their own zone of occupation. But, for other purposes, both also wanted "unification." A feud was inevitable over what kind of unification. The Russians wanted the political unification of a central German government. The western powers preferred the economic unification of industry and trade.

In the beginning, in 1945, the lines had not yet been drawn on the issue of "economic unification," which later became the chief bone of contention. It was only after the level of industry agreement that the Soviets began to insist they could not agree to make Germany one large free-trade area, without a corresponding agreement on a government for the whole of Germany; and the western powers said they could not agree to discuss a central government until trade barriers had been removed and Germany was functioning as a single economy.

The four-power arguments in the early stages of the occupation, beginning in the summer of 1945, left real recovery and reform on the sidelines. To get the political support of large landholders the occupying powers might abandon land reforms needed for agricultural recovery. To get the support of established industrialists, coal might be given to the politically most powerful. For the same reason, licenses to engage in business might be so allotted as to restrict new production, instead of expediting it. We knew that Germany was almost bound sooner or later to become a football. Once it did, recovery would follow the same lines as in the past. Therefore it was especially important to keep the issues clear; but the Americans at Berlin, especially on the economic side, dropped the ball, fumbled, dropped it again. Everything got very muddy.

The Potsdam Agreement had been in effect for two months when Dr. Don Humphrey, adviser in the Economics Division, circulated a memorandum dated October 15, 1945 in which he proposed that the intentions of the Potsdam directive should be reversed, that coal should be kept and used industrially in Germany instead of being furnished to countries like France, and that the greatest emphasis in German production should be on highly manufactured items like machinery. He said: "It is recognized that the claims of the nations importing coal are persuasive, and that *for the moment we are operating under a directive.* [Italics added.] Nevertheless, the point must be driven home that this decision is tantamount to subsidizing the coal-importing nations from the German economy, thereby forcing us, the Americans, to subsidize the German economy. Coal is, and during the next year will remain, the factor limiting production. It should therefore be used in the manner best calculated to limit our liabilities—that is, to balance Germany's foreign trade. This means that at the earliest possible moment, coal should be converted into the most valuable form for export. This probably is machinery."

The "moment" during which "we" were operating under the Potsdam directive soon passed, and in a short time it was fashionable to say that the economic decisions at Potsdam had "proven unworkable." Two years later, the press was reporting a remark by Dr. Humphrey at a meeting in Paris to the effect that the Potsdam Agreement was a "dead duck."

The "duck" had begun life as a very sick chicken. Early in the fall of 1945, even before Dr. Humphrey's memorandum, Dr. Calvin B. Hoover, Duke University economist, had been hired as an adviser by the Economics Division at Berlin. His assignment was to prepare specific proposals for reducing German heavy industry and building up the light industries. His report was to be used as a basis for establishing the American position on details during the four-power discussions then in progress on the level of German industry.

The report by Dr. Calvin Hoover, instead of showing how the economic readjustments required by the Potsdam Agreement could be carried out, argued that they were impossible. Looking at Germany alone, and largely disregarding effects on other European countries, the Calvin Hoover report urged restoration of Germany along the lines of its prewar and wartime economy, with a high degree of emphasis on heavy industry and the retention of coal and semifinished products inside Germany. Proposed coal exports to coal-consuming countries like Belgium and France were to be cut down and iron and steel production schedules in Germany boosted. The theory was that this would be the quickest way to get valuable exports out of Germany to exchange for food and raw material imports, thereby limiting American expenditures.

At that time no Marshall Plan was being discussed. Therefore, the presumption apparently was that delayed recovery in other parts of Europe would not add to the burdens of the American taxpayer, whereas the slightest delay in German recovery would entail added costs to be paid by the United States.

The United States ultimately took it on the chin both ways. The coal that was kept in Germany was allocated largely to rehabilitation of the heavy industries instead of producing exportable goods. As late as 1947 we were still finding glass factories and other light-industry establishments which were all set to produce for export, but which were still shut down for lack of coal. Coal and machinery, meanwhile, were being poured into "rehabilitation" of heavy-industry plants. The export program lagged behind estimates, requiring more and more dollars in food and raw materials from the United States. Later, when the Marshall Plan came along, the extra costs of delayed recovery in the other European countries which had been deprived of German coal also fell on the backs of American taxpayers.

When the Level of Industry Agreement was finally reached in March 1946, the British appeared to have lost their argument for a very large German iron and steel capacity. Germany was allowed to retain enough plants to produce 7,500,000 tons per year or about a third of the wartime output; but actual production was not to exceed 5,800,000 tons in any year without approval of the Control Council. However, even with the agreement signed, the argument did not stop. By July 1947, though the steel industry of the Ruhr was producing at the actual rate of about 2,500,000 tons a year, the United States and Britain agreed to raise the ceiling on production from the four-power agreed figure of 5,800,000 tons to a new figure of 10,700,000 tons per year. French protest held up the conclusion of this new agreement until three-power negotiations were undertaken in London, but finally the French had to capitulate. They got only the promise of a little more coal from Germany in the future, after German production had increased.

Throughout the time from March 1946 to the new jump in permissible steel production in this London agreement of 1947, a stream of American "experts" was brought to Germany on short visits to see the German economy at first hand, under the guidance of the Economics Division. The reports of these visitors echoed the conclusion that German recovery demanded greatly increased emphasis on heavy industries. In their reports the visitors frequently referred to the "proven impossibility" of something which no one had yet tried to do. With equal frequency they reported the "mounting chaos" that was supposed to have resulted from the ruthless

"Morgenthau Plan of deindustrialization." Other damage was alleged to have been done by drastic reforms and alterations that were never actually imposed upon the German economy. It became customary to refer to the urgent necessity for "reversing the former policy of destroying German industries."

These comments on Germany became standard fare in the United States within a year after the occupation began. At this point no steps had been taken to carry out an "antitrust" policy anywhere in our zone of Germany except for two cases: the seizure of plants and assets of I.G. Farbenindustrie; and, in February 1946, the appointment of a trustee to administer the coal wholesaling firms in our zone that had belonged to the big Ruhr collieries. Yet the impression was now being conveyed to the American public that the lag in Germany's recovery was to be ascribed not to German indifference or apathy, or to deliberate sabotage of recovery by the old management groups, evidence of which had been steadily accumulating, but to the decartelization program and the removal of Nazis from high positions in business management. With Heinrich Dinkelbach of United Steel running the iron and steel industry of the British zone; with Ernst Helmuth Vits of VGF running the synthetic textile program; with Hermann J. Abs of the Deutsche Bank moving up fast as a "financial adviser"; with Hugo Stinnes and the men of the coal syndicate being groomed for the expected bizonal coal authority; and with all the others "back again and better than ever," it was hard to discover which important Nazis were supposed to be missing.

Public impressions of what was happening in Germany changed swiftly from the time when reforms had to be delayed in the interest of recovery to the time when delayed recovery was blamed on the drastic reforms. Looking back, it is hard to fix the particular moment at which the transformation took place. If the German heavy industrial "fat man" had actually been reduced, when and how was it done?

CHAPTER 15

Sabotage

WHILE the Economics Division was beginning to complain of impediments to German recovery, any such remarks aimed in our direction were gratuitous. For a long time, as far as German combines were concerned, we had no authority to do more than plan steps for the future. When our plans were finally worked out, they took account of the need for a sound economic recovery and were approved in principle by General Clay. The only reorganization which had been sanctioned by a four-power agreement was that of I.G. Farben. While we waited for four-power agreement on a broad program of reorganization for other combines, or for General Clay's permission to proceed alone in our own zone, we concentrated our efforts on the Farben plants. The idea was to use the reorganization of this one giant as a proving ground for ways to handle the others; but eventually it stood out as the only industrial reorganization that our military government attempted — a dance of the skeletons in the army's "greatest show on earth."

Colonel Pillsbury, my predecessor as control officer for I.G. Farben, had established a Control Office at Griesheim, near Frankfurt, with a staff of thirty officers. To get ready for the first meeting of the four-power Committee of Control Officers in the last of January 1946, General Draper and I agreed that we should ask for a report from our I.G. Farben Control Office on the condition of Farben plants and assets in our zone, and on what, if anything, had already been done since the seizure of the properties on July 5, 1945. Several officers came up from Griesheim to prepare the report. We discussed the project first in General Draper's office before they went off with their papers and figures to write the story. I noticed

that Senator Kilgore's blast in the press on December 23, 1945 was still fresh in the minds of General Draper and the men from Griesheim. They were eager to make a good showing in the number of plants made available for reparations, or destroyed as primary war plants, and in the controls that were being maintained over the properties that remained.

We presented the finished report to the three other I.G. Farben control officers at the first meeting of the four-power committee, and furnished copies to the Economic Directorate. We also presented a tentative plan already prepared at Griesheim as a basis for the reorganization of the I.G. Farben complex into separate economic units.

Much of the report became inaccurate with the passage of time because it had been written in optimistic double meanings. Plants were listed as "declared available for reparations," which sounded like an accomplishment. Later many plants were withdrawn by the Industry Branch pending "further study" of Germany's needs, or they were included in General Clay's blanket order to halt reparations deliveries until the Russians agreed to economic unification of Germany. Plants listed "to be destroyed as war plants" were actually treated much less drastically. Parts which could be converted to some other use were retained and reopened. At Gendorf, for example, was a poison-gas plant which had used slave labor from Auschwitz and in turn had supplied both gas and candidates for the Auschwitz gas chambers. Part of the Gendorf complex was a plant producing ethylene glycol, an intermediate product in the manufacture of poison gas, but also used as an antifreeze. This was retained for peacetime use.

So with other parts of the war-built plants. Reinforced concrete bomb-resistant buildings which could serve as warehouses were saved. Shell-loading equipment that could be adapted to some other use was kept. Only the few buildings and the equipment that could not possibly be turned to some other purpose was blown up in a spectacular demonstration of our "determination to extirpate the German war machine, root and branch."

While much of this was explained as only good common sense — saving as much as possible from the wreckage — we found that more often than not a "bargain-basement" mentality was dictating the action. The German cellar was becoming cluttered with things that could be had cheaply and might come in handy some day.

On one of my first return trips to the Ruhr in February 1946, I found that an armor-plate mill at Haspe, designed to roll the heaviest sections, was being prepared with all its slow and ponderous bulk to roll thin sheets for transformers or for tin-plating. I knew from my own work in steel plants that this was a far cry from the efficiency of a high-speed continuous strip mill — which can not be converted, by the simple turn of a screw, into an armor-plate mill.

Without wasting time in argument with the industrial brains who were pawing through the German junk-pile looking for salvage, the four-power I.G. Farben Committee set up a working party to study the entire maze of Farben plants in all four zones. The working party was to find out which plants or groups of plants could be operated economically as separate units. The raw materials must be either self-contained in the unit or available on the open market; and the products must be salable. With those instructions, the working party got busy, and by January, 1947, we had four-power agreement designating twenty-one separate manufacturing units and seven mining and extractive units in the United States zone, employing over eighteen thousand workers, out of the complex of nonwar plants that had employed about thirty-five thousand. Within another six months, practically all the remaining plants had been grouped into a total of fifty separately operating units. At the same time, similar units were being carved out of the Farben properties in the other three zones.

We designated other working parties to line up questions on patents and trade-marks, on I.G. Farben's former stockholding in other firms, on international and domestic cartel agreements, and on the formerly centralized selling and accounting arrangements. We reached agreement on the American proposal that in each zone, pending final decisions establishing the new ownership of the separate units, the control officer might designate a trustee for each unit and transfer the legal ownership of the properties from the Allied Control Council to this trustee.

We knew these first steps had a great weakness. They left the physical and economic basis of the old I.G. Farben empire intact, except for the removal of common financing and selling, centralized accounting, and centralized direction from a single board of managers and supervisors. If German trustees could be found to operate the plants independently in good faith, and not under secret agreements to "co-ordinate" their activities through the ousted management, there was a chance that plant groups which formerly had concentrated on particular products or on intermediate raw materials would branch out and manufacture whatever products they could sell. In that way the old interdependence of plants and cross-shipping of intermediate products would be replaced by a new pattern of independent and possibly competing chemical industries. Such independent industries would be easier for single German states to control or to take over. But if the new trustees were stooges and stand-ins for the old guard, the accomplishments of this reorganization would be nil because the old ties would remain intact.

We knew that those of the old management who were not in jail still met secretly but regularly at Frankfurt and other places in the western zones and planned for the day when they could once more weave I.G. Farben back together. At one time the manager installed by the Industry Branch to run the big Farben plant at Höchst reported work stoppages and other production troubles which he blamed on our German custodian. Upon investigation we found that the manager himself was attending meetings of the ousted management in an abandoned store in Frankfurt and was building a bad production record to discredit the new setup. When I ordered the manager removed from the plant, the Industry Branch complained that we had taken away an experienced and indispensable operator. He stayed fired, however, and the plant continued to operate; but the ex-manager kept turning up at meetings of the chemical association for Greater Hesse, where the other German industrialists accorded him as much respect as formerly. There was no law to touch him or the association.

In the first year of the reorganization, the initial thirty "independent units" in the United States zone were operating on the whole successfully and some were even producing more than ever before, in addition to diversifying their output. Since the shortage of transportation would have made it difficult for these plants to operate in the old way, as interdependent units, we felt at least that our test-pattern was vindicated from the "recovery" side, however dubious and experimental it might be as a completed "reform."

While we were proceeding during 1946 with the I.G. Farben test, and also negotiating for the passage of a cartel and combine law, the Finance Division, headed by Jack Bennett of the Treasury Department, and later by Theodore H. Ball, also of the Treasury, commenced the reorganization of the big commercial banks. They ordered the German minister-president of each *Land* (state) government to appoint an independent custodian for the local assets and business of the branches of the Deutsche, Dresdner, and Commerz banks. The custodian was to pay no attention to former stockholders and managers of the banks and he was to give the new institution a new name having no similarity to the old one. It is interesting to note, however, that the present letterhead of the "Hessische Bank" has under it in dark letters, "formerly Deutsche Bank," and the "formerly" is so small as to be almost illegible.

Later a group corresponding to the Board of Governors of the Federal Reserve System was set up in the western zones, consisting of one representative from each of the eleven *Länder* and one chairman, to operate a "Federal Reserve Bank" known as the Bank Deutscher Länder.

Jack Bennett and Ted Ball met the same arguments that were put up by the British economic group and by our own Economics Division against reorganization of the big industrial combines. Since representatives of the "Big Six" banks, and especially of the "Big Three," had voted the majority of the proxies at stockholders' meetings of all the important industrial combines, the slashing of this function alone was expected to play havoc with the recovery of industry. Other evils from "drastic reorganization" of the banking function were cited in a running argument that lasted for over a year.

Both the I.G. Farben reorganization and the Finance Division's banking reorganization provided some contrast with the complete absence of steps by the Economics Division under the same general

directives. At first, there were press releases claiming progress in carrying out directed changes. On February 2, 1946, a dispatch from Berlin reported:

> Some progress has been made in converting Germany to an agricultural and light industry economy, said Brigadier General William H. Draper, Jr., chief of the American Economics Division, who emphasized that there was general agreement on that plan.
>
> He explained that Germany's future industrial and economic pattern was being drawn for a population of 66,500,000. On that basis, he said, the nation will need large imports of food and raw materials to maintain a minimum standard of living.
>
> General agreement, he continued, had been reached on the types of German exports — coal, coke, electrical equipment, leather goods, beer, wines, spirits, toys, musical instruments, textiles and apparel — to take the place of the heavy industrial products which formed most of Germany's prewar exports.

General Draper's reference to the "prewar" German exports as having been predominantly in the fields of heavy industry was strictly true only of exports in the *immediate* prewar years while German heavy industry was being deliberately overbuilt.

The wonder is that neither the British nor the Americans continued this progress in converting Germany toward a light-industry economy which General Draper cited in his press statement. If the economics authorities had steered away from heavy demands on transportation and oil, and recognized that the coal shortage was the main factor limiting production, the way would have been open for General Clay to write his own ticket. With a green light and a pile of coal for the light industries, and yellow or red lights for the others as indicated, there was no good reason for failing to get results. This was the situation when the four powers reached their Level of Industry Agreement on March 29, 1946.

On April 3, I was forced to leave for the United States to recruit a staff for my Decartelization Branch. Practically all the experienced investigators had returned to the United States following the deadlock with the British and the wrangles between the Cartels Division and the Economics Division. At Berlin, my "staff" had dwindled to one man with antitrust experience, Creighton R. Coleman.

In view of the press reports of our troubles at Berlin, people with cartel experience were refusing to accept jobs with us on the strength of cabled appeals.

At Washington, I worked at one desk in the Pentagon recruiting for the Decartelization Branch while down the hall in another office Frederick L. Devereux, General Draper's deputy, interviewed candidates for the Industry and Trade and Commerce branches of the Economics Division. As head of the Industry Branch, Mr. Devereux selected Colonel Lawrence Wilkinson, who had had some prior experience in Germany as representative of American banks which had underwritten loans to Germany. Colonel Wilkinson was to replace Colonel James Boyd, who was returning to the United States to become, eventually, director of the Bureau of Mines.

Most of the new men recruited at Washington were permitted to move their families and household goods to Germany. The regulations were amended at the same time to allow employees already in Germany to send for their families. Before I flew back to Berlin, I saw my own wife and two children aboard an army transport. The prospects seemed good for a long occupation, during which arguments over policy could be settled and constructive results accomplished.

On my return to Berlin on June 24, 1946, after a very difficult time rounding up some forty lawyers, economists, investigators and secretaries, most of them with outstanding records in public service, Creighton Coleman met me with news that was like a sudden blast of cold air. The replacements Mr. Devereux had selected for the Industry and Trade and Commerce branches had been coming in with only the barest briefing on what official policy was supposed to be. Almost with one accord they were blaming the visibly slow pace of German recovery on "reforms." They were condemning the Trading with the Enemy Act, which prevented unrestricted direct dealings between American and German businessmen; the denazification program, which they said was denying German industry the services of the "best management"; the decartelization program, which they claimed would "break up" the efficient industries into unmanageable little fragments. They assailed the proposal to open up the patent pools of the German combines for use by all German industries on the ground it would discourage new inventions and the disclosure of new technology.

Considerably disturbed by the swiftness of these moves, I went to General Clay to report on the Washington trip. He said that the decartelization program had lost ground considerably in my absence. Congress was becoming economy-minded, the spotlight was turning to "recovery" and "saving the American taxpayers' money." In his opinion we would have to move rapidly, because the pressure to do nothing at all might be expected to increase. Several visitors from the United States, including some congressmen, had gone home with the impression that the decartelization program was a combination of the Morgenthau Plan for deindustrializing Germany and a scheme to break up the remaining industries into thousands of unrelated plants.

It did not take long after I left General Clay's office to discover at least part of the reason for the strange tales being carried back to the United States. That very evening I was asked to attend a dinner sponsored by General Draper and the Economics Division for a group of six visiting American industrialists who had come to Europe for a meeting of the International Chamber of Commerce at Paris. They were just rounding out two days spent at Berlin with the Economics Division in a "survey of the economic situation." After dinner they were to hear brief summaries from two branches which had not been heard from in the earlier discussions.

To preface the two summaries, General Draper explained his view that the great and immediate need was recovery, to save the American taxpayers' money. Of the two less important branches of his division, one, Restitution, was necessary to correct certain evils of the Nazi regime, regardless of what the cost might be. The restitution of looted property was not expected to retard recovery unduly. The other branch, Decartelization, was concerned with certain changes that might have to be made in the future although for the present the cartels had been "put out of action" by the war. At the end of the proceedings, as the guests twisted in their chairs and finished their cigars, I had five minutes to present a picture of the aims and program of my branch.

The six distinguished guests on this occasion included Philip D.

Reed, chairman of the board of General Electric and head of the American delegation to the International Chamber of Commerce; Robert R. Wason, president, and Robert Gaylord, chairman of the executive committee, of the National Association of Manufacturers; John Abbink, chairman of the National Foreign Trade Council; Randolph Burgess, vice chairman of the National City Bank of New York; and Benjamin H. Beckhart, economist of the Chase National Bank. Several of the visitors were friendly as the dinner broke up, said the National Association of Manufacturers was of course on record as opposing cartels, but they were not sure that "trust busting" on a large scale was called for in Germany "at the present time," and it might do a great deal of harm. I had spent my five minutes describing how a body of less than a hundred men had been able to deliver the German economy to the Nazis bound hand and foot, and how we proposed to establish a less centralized control over German industry. Yet it was clear that the net impression of the guests at the end of two days was a stereotyped impression that we were "trust busting" indiscriminately among struggling businessmen who were already prostrated by the war.

This was no isolated case. Throughout the rest of the summer, when visiting groups arrived from the United States, we found again and again that the Decartelization Branch was allocated a brief period of time toward the end of each program to make a statement, and always after an adverse context had been built up by other speakers from the Economics Division. The previous speakers, nominally allocated ten or fifteen minutes, often ran on for twenty or twenty-five; but invariably General Draper, or whichever of his deputies happened to be in charge of the meeting, would introduce the subject of decartelization as if it were an afterthought, emphasize that it was not important at the present time, and heavily underscore the point that the talk would be *very short.*

We decided to direct our attention first toward clearing up the four-power negotiations for a decartelization law. The American position had been confused on this matter ever since the squabbles of October and November 1945. If we were being misunderstood, our cue was to get all issues clear and our position straight on the

record as fast as possible. Once we knew the exact points of difference with the French, British and Russians, we could go to General Clay with concrete proposals for a settlement of the stalemate.

During July we had an uphill fight in the four-power committee to define the points of agreement and disagreement. The Soviet delegation occupied the chair in each committee and directorate for that month, under the rotation system. Our chairman was Sergei Bessonov, who had served a short prison term after the Moscow trials in 1938, and who was proceeding carefully and cautiously on each point. It took a little over four weeks of patient statement and restatement of the American position to find whether or not the differences with the others were fundamental.

At our second meeting in August, we at last had three-way agreement on a draft of a law which in one section defined the kinds of cartel and monopoly practices which were to be prohibited. In another section, the draft law set out three ways of measuring "large size" in an industrial combine: by percentage of control over the industry, by total value of its plants and other assets, and by total number of employees. It was proposed that a combine should be permitted to control a greater percentage of an industry, or a greater aggregate of properties, or to employ a greater number of workers only if a four-power commission or the Control Council found that the exemption was necessary.

Though the British member of the committee, Brigadier Caton C. Oxborrow, still had to disagree with three points, we had unanimous agreement on a statement of those points. The same agreement on the exact points in dispute prevailed in the Economic Directorate, where our paper had to be approved before going to the Co-ordinating Committee. The British could not agree to any explicit definition or prohibition of economic practices fostering monopoly. They could not agree to adopt any standard of size that would raise a legal presumption of "concentration." They could not agree to give a four-power agency the authority to judge cases and issue binding decisions, but only to make recommendations to the commanders of the respective zones.

On Saturday, August 3, 1946, before the division directors' meeting, I went to General Clay's office to report the agreement with the British on points in dispute and with the French and Russians on the text of a law. I took with me a three-page summary of a program to be carried out in our own zone while we went ahead and worked for four-power agreement. This proposal was based on a statement of policy prepared at Washington by the Interdepartmental Committee on Cartels and Monopolies and approved by the President's Executive Committee on Economic Foreign Policy. My memorandum pointed out that of the eighty-five outstanding German industrial combines, twenty-seven had their head office or principal place of business in our zone. These could be reorganized from the top down, while individual plant groups belonging to combines with head offices in other zones could in most cases be treated as independent enterprises and severed from their "foreign" parent corporations.

The specific steps of the program suggested by the President's Executive Committee were as follows:

a. *Elimination of Holding Companies.* Wherever companies have been held together by stock ownership, all top holding companies and all intermediate concerns which are merely holding companies should be dissolved. All operating companies should be required to divest themselves of any securities held in other companies, and should be confined to ownership and operation of physical plants. Future stock acquisitions by such concerns should be forbidden.

Mergers of any parts of divested or dissolved companies should be prohibited unless permission is granted after an affirmative showing of public interest. Transfers or purchases of physical assets among remaining companies should be similarly prohibited, to prevent the effect of mergers through transfers of assets.

b. *Elimination of Interlocking Directorates.* To prevent combines from being held together through common top personnel, all officers and directors of companies included in prohibited combines should be required to surrender all their offices and directorships except those in the one company in which they are principally concerned.

c. *Elimination of Contractual Ties.* Contractual and intercompany service arrangements having the effect of maintaining common management should be canceled. Specifically, arrangements for performance of central office services, central accounting, central finance, interchange of personnel, exclusive agencies, and preferential or exclusive trading rights, should be prohibited.

d. *Elimination of Patent Restrictions.* Enterprises which have been members or parts of prohibited combines should be required to grant nondiscriminatory licenses to all applicants under patents which they now hold and under licenses which give them rights to sublicense. They should surrender exclusive or preferential rights under licenses granted by other enterprises. They should be required, for a considerable period of transition, to make available to all comers, on nondiscriminatory terms, any technology or patent rights which they make available to other concerns which have been part of the same combine.

e. *Elimination of Large Single Enterprises.* Single operating companies which, standing alone, still are so large as to fall within the "mandatory" size standards set out in the draft law, should be separated into technically and economically operable independent units. Parts of a company should be separated from one another if they are in unrelated industries, if they have had a separate corporate existence within the past ten years, if they were acquired under "Aryanization" or other National Socialist economic policies, or if they are so separated from one another physically and technologically that they do not in fact have a common operating management.

After reading this paper and discussing it, General Clay wrote across the top, "Approved in principle — LDC." He then told me to inform the British, French and Russian representatives at our next meeting that, pending four-power agreement, General Clay was going to issue a decartelization law for the United States zone. If any of the others wanted to follow suit, we would be glad to co-operate with them in enforcement. Later, at the directors' meeting, General Clay repeated his instructions to me to make them a matter of record.

It was my hope, though not necessarily my expectation, that this restatement of the way in which we proposed to approach the problem of economic decentralization might put a stop to some of the misunderstanding of our purposes. Much of our opposition from old hands and newcomers in the Economics Division seemed to come from ignorance of the official policies and of the many findings that lay behind those policies. If we at least had a military government law on the subject, possibly the arguments could be confined to the issues and findings in specific cases.

Getting the law issued was another matter. First, Ambassador Robert D. Murphy, the Political Adviser, questioned General Clay's decision to act without the agreement of the British. General Clay replied with a note saying that if the Americans, French and Russians reorganized the combines and broke up the restraints of trade and monopoly practices in their zones, and left the British alone with their cartels, that in itself would to some extent end the centralized controls over German industry. In addition, it might force the British to act, he said. Actually, that is what did happen in the case of the banks, some months later, when the British found that their opposition was not going to delay the Finance Division's decentralization of the banks in our zone.

We prepared a draft law, together with an appendix listing those of the eighty-five major combines which had properties and assets in the United States zone. Within a week after General Clay gave his order we had circulated the draft, together with the listing of the combines, to all interested branches of the Economics Division. In all cases where other branches of the Economics Division did not concur in the listing of a given combine, we discussed the particular case with the branch or section chief concerned and, in the end, either got concurrence or else dropped the combine from our list in order to eliminate delays in getting the law to General Clay for signature. After nearly a month of delays caused by objections from the Economics Division and from some other divisions which wanted special exemptions for German activities under their control, the law was ready to be presented to General Clay. All that was needed was the signature of the director of the Economics Division.

In the first part of September 1946, before signing the draft of the law General Draper returned briefly to the United States for discussions of the proposed bizonal merger agreement with the British. Upon his return to Berlin on the evening of Friday, September 13, General Draper called me from Tempelhof, just after

his plane arrived. He said that he had talked about the decartelization law with William L. Clayton, then Assistant Secretary of State for Economic Affairs. These talks, he said, had revealed a shift of position at Washington on the subject of a "mandatory" law. Also, there was some doubt in the State Department about going ahead without the British.

The following morning, Saturday, September 14, 1946, General Clay called me to his office. Among other things he asked how we were coming with the decartelization law for the United States zone. He said he had instructed me to prepare such a law more than a month before. How long did it take to change a few words? Actually it took from August 3, 1946 to February 12, 1947 to push these few words through the machinery of military staff procedure that General Clay had set up, but now I merely reported my telephone conversation of the preceding evening. General Draper felt that in view of the possible shift of policy in Washington, we should hold up the issuance of the law until we had tried once more to get the French and Russians, as well as the British, to agree to a law instead of proceeding unilaterally in our zone. General Clay's face clouded up and his speech became even more controlled and precise than usual. He stated that his instructions from Washington had been that the law must be "mandatory." He would not alter his position unless Washington put the order in writing. If he did receive a written order he would make a vigorous protest against the State Department's shifting of the American position while we were in the midst of dealing with the situation that had arisen under the original policy. He went on to say that he was not certain that someone from the Economics Division had not done a certain amount of selling of the "nonmandatory" position in Washington.

I agreed that the position which General Draper had reported the previous evening was precisely the position that the Economics Division had been trying to sell since October 1945, when the confusing issue of a "nonmandatory" law as against a "mandatory" law first came up. I repeated again, as on several earlier occasions, that I was finding my double position as a "division director" and a branch chief intolerable, since I knew what the official policy was and had been trying to carry it out. He asked me to bring up the question of issuing the law later that morning at the division directors' meeting so that he could make his position once more perfectly clear. So, at the meeting I said with a straight face that recent developments had led to some doubt about whether we should go ahead with the unilateral law for our zone alone; whereupon, with General Draper looking on, General Clay laced into me for delaying after he had given his specific instructions. This slightly conspiratorial way of saving the surface was disturbing.

Meanwhile there were rumors from Washington of a possible Senate investigation of military government. Several officers returning from Germany had complained to the former "Truman Committee," now headed by Senator Kilgore, that important policies were not being carried out. The rising tension that followed the rumors had no visible effect, however, on the Economics Division's "briefings" of visiting delegations from the United States. What at first had appeared as off-the-cuff statements by men new to their jobs began to look more like an established routine. The issue over such "briefings" reached a climax after a session with a group of visiting editors from the United States, held in the Economics building on October 9, 1946. Peter V. Martin, deputy director of the Economics Division, was in charge of the meeting. He introduced Colonel Wilkinson, as chief of the Industry Branch, to make a statement. Colonel Wilkinson repeated his favorite theme that the denazification and the decartelization programs, which he often confused with one another, were responsible for delaying German economic recovery.

This time Colonel Wilkinson waxed poetic. He said that in trying both to help Germany recover and to get rid of Nazi management and the centralized controls of the cartels and combines, we were "pulling a man up by the hand while we kept one foot on his neck." He went on to assert that, "as everyone knows," in an economy of scarcity there must be highly centralized controls "to avoid wastage of materials and manpower." Only a rich country, like the United States, could afford to waste materials, manpower, and plant capacity on an "antitrust" policy.

At least we were getting close to a clear statement of how the new crop of administrators viewed the German economy. I thought

of the intercepted telephone conversation, reported two weeks earlier, between a German official at Stuttgart and one at Munich. They were agreeing on a new method of reporting production figures so as to give a "more pessimistic picture," and thereby save plants from being taken as reparations. Now we were being told that the men who had had undisputed control of the German economy even under the Weimar Republic, and had run it so far off the road that only a war and an organized looting program could save it, were "indispensable." Shades of "Great Gustav" and the trouble Albert Speer had getting the Krupps and others to bend to the needs of their own war program!

On the morning of October 10 I went to General Clay, told him about the "briefing" of the editors and publishers, and asked to have the Decartelization Branch removed from the Economics Division and restored to its original status as a functional division of military government. I pointed out that we could not hope to see our program represented accurately to the outside world so long as the Economics Division controlled what was said about it. If this routine occurred once more I would have to fight back regardless of how spectacular the "briefing" might become. I could no longer remain silent and dutifully "subordinate" if such statements were made in my presence.

We had to expect a swing of the pendulum, General Clay replied. It might have to swing even further away from the original objectives of the occupation before any backswing could be hoped for. He asked me to stay in the Economics Division while he studied the matter. With a senatorial investigation possibly in the offing he did not want to shift a major unit in such a way as to imply criticism of the Economics Division. In the meantime, to deal with the immediate issue, he called in his secretary and dictated this memorandum to General Draper:

> It has come to my attention that at a meeting of editors visiting from the United States, statements were made to the effect that the revival of economy in Germany was made more difficult (a) by denazification and (b) by decartelization, thereby indicating that two major policy objectives of the United States were at least in part responsible for economic conditions in Germany today.

As you know, I have never attempted to restrict anyone's personal views or the expression of these views as personal views. However, in officially presenting OMGUS policy to representatives from the United States, it does not seem quite fair to me to express personal views.

The extent to which denazification has affected the revival of German economy is a matter of opinion. I am still of the view which I held from the beginning that the denazification program has affected the labor groups and lesser employees so favorably as to have a beneficial rather than a harmful effect. I am sure that the failure to have denazified industry would have resulted in a battle between management and labor which would have been disastrous to all of our objectives. I can not agree or accept a conclusion that denazification has had a harmful effect on the German economy.

The same applies equally to decartelization. Actually, our decartelization program has not progressed sufficiently as yet to have any real effect on the German economy, as the physical condition of industry has in itself prevented cartel actions of any magnitude during the past year and a half. I am convinced, however, that the re-creation of small businesses in Germany will do more to revive its economy and to provide a far more satisfied population than in the regrowth of cartels which, in many instances with the government support, were able to dictate their own terms to their customers.

It seems to me that a lukewarm attitude toward decartelization is certain to develop if we begin to preach that decartelization will stifle German economy. As you know, many sincere people believe that the foundation of free enterprise in America rests in small business, particularly where ownership and management are combined to work closely with employees. While I am not attempting to carry a brief for small business against big business in the United States, I am certain that the revival of democracy in Germany is dependent on our ability to develop an economy which is not controlled by a handful of banks and holding companies.

I would appreciate it if you would make this policy fully understood as representing the official view of OMGUS.

The following Saturday, October 12, 1946, at the meeting of division directors, General Clay abandoned his usual procedure of

calling for progress reports from all directors and instead invited "gripes" or criticisms from all of us in turn as we sat around the table. General Draper, whose turn came third on the list, stated that his first "gripe" was decartelization. He singled out the policy instructions from the State Department that had to do with limiting the "size" of the chains of companies kept under one management. "Germany in the accredited world markets, which it is going to have to enter, has got to have the opportunity to have efficient industrial organization; and where that requires sizable industry or plants, that should be permitted," he said.

General Clay had previously said that he would withhold comment on particular complaints until everyone had been heard. But at this point he interrupted the proceedings. With his black eyes flashing, he said: "I don't believe that we can accomplish our purpose without striking out the large corporations in Germany. The conduct of those existing in the past condemns them. I personally am fully in sympathy with decartelization based on size until we have destroyed conditions which did exist in Germany, accompanied by an antitrust law that will prevent the most harmful effects of cartelization." He went on to remind General Draper of his duty as an officer, regardless of his personal opinions, to adhere strictly to policies which were fixed by official statements from Washington.

Clearly we were talking more and more at cross-purposes with the critics who spoke always of our "breaking up" industries, trying to establish "small business," and setting up a "wasteful and inefficient" German economic system. Actually, men like General Draper were right when they said the war had "broken up" the combines, in the sense that the operation of their plants was now decentralized. With Germany divided into four zones and Berlin an island one hundred and twenty-five miles inside the Soviet zone, how could the management of Siemens & Halske at Berlin really supervise the work of hundreds of subsidiary corporations located all over Germany? How could men in the Haniel family's top holding company, Good Hope, at Nürnberg, really oversee the operations of steel plants at Oberhausen in the Ruhr, coal mines near Dortmund, river shipping companies on the Rhine, and machinery and diesel engine works in Bavaria? We were not interfering with production. We simply wanted to make the operation of the separate plants legally independent, so that the old management would not be able later to pull everything together on the old basis by a simple stroke of a pen.

The "concentration of power" we were talking about was a form of over-all economic planning, carried on privately, out of sight, by the kind of men who had made up the "Himmler Circle." We were not talking about the way even "mass production" business is supposed to be carried on in the United States. We decided to do what we could to put the discussion in a new light, with attention focused on German business as we had found it. We put part of our growing staff to work on a summary of all that we had learned about Germany's cartels and combines.

CHAPTER 16

The Christmas-tree Economy

WE wanted to lay down side by side our picture of the cartel and combine-ridden German system, and the guidelines Washington had provided to help military government deal with the problem. Beside these, on the table, we wanted to lay the new crop of ideas about the need for keeping the "old experienced management," the need for centralizing management, and the other conditions that some people were now considering essential to Germany recovery. How did the new ideas square with actual conditions in Germany? Where the Washington policies were not being followed, were the substitutes actually contributing to a more orderly and speedy recovery, or to security against future German troublemaking? Since some of our colleagues at Berlin found the official policies unworkable, what kind of economic ideas and developments did they find acceptable? What were they doing?

We began to pay closer attention to some of the day-to-day problems that came up, and the action that the Economics Division took to meet them. Were there some difficulties which Washington had not foreseen and which were forcing military government to improvise?

The Netherlands government, in a letter dated July 10, 1946, requested military government to allow a German, Dr. Alexander Kreuter, to visit The Hague for three weeks to take part in discussions of economic and financial problems involving important interests of the Netherlands. The letter said that Dr. Kreuter had been a trustee of various interests of the Netherlands government since 1921 and had carried out his duties with great care and loyalty. Such a request had to be passed upon by the Combined Travel Board made up of military government representatives of the United States, Britain and France to determine whether the request would jeopardize any of the goals of the occupation. The Combined Travel Board asked the opinion of the Economics Division, because Dr. Kreuter was serving as a German consultant in the office of the director of the division. The Economics Division found no reason for denying the request of the Netherlands government, and the Board issued the necessary exit permit.

Though the purpose of Dr. Kreuter's visit was to discuss both economic and financial problems, the Finance Division did not learn of the trip until after Dr. Kreuter had left. Jack Bennett, director of the Finance Division, had previously raised a question about the military government employment of Dr. Kreuter, who was listed in the records of the SS as a contributing member. Dr. Kreuter claimed his connection with the storm trooper organization had been purely nominal and for business reasons only. Bennett asked the Visitors' Bureau to put a stop order on further travel abroad by this particular consultant until his record had been cleared up.

During the German occupation of western Europe, Dr. Kreuter had been busy not only as a trustee of various Dutch properties in Germany and the occupied countries, but had operated with considerable latitude throughout Germany and German-occupied territory on other financial affairs. He had been manager of the German branch of the French collaborationist bank, Worms et Cie. He had also been for many years head of the Deutsche Kredit-Sicherung K.G., or German Credit and Investment Corporation, which had been set up in the 1920's with the help of a loan of ten million dollars from American investors, floated through Dillon, Read & Company. He had likewise headed the corresponding American firm, the German Credit and Investment Corporation of New Jersey. Another officer of the latter firm had been the Secretary-Treasurer of Dillon, Read, William H. Draper, Jr., whom Dr. Kreuter was now serving as a consultant.

Dr. Kreuter had been very busy during the war. In the spring of 1942, when persons in the occupied territories still considered a German victory likely, a group representing French, German and

American business interests, operating through Vichy in unoccupied France, had formed a syndicate to engage in banking operations in German-occupied Europe. This syndicate, the Société de Crédit Intercontinental, combined American, French and German capital and banking personnel in Europe.

The French group, headed by the Banque de l'Indochine, included the investment bank of the Schneider-Creusot armaments interests and the French insurance syndicate. The American group included the French subsidaries of Ford, the International Business Machines Corporation, the Corn Products Refining Company and some others. The German group was headed by Dr. Kreuter of the *Deutsche Kredit-Sicherung* K.G.

According to the plans, the chairman of the board of directors was to be General Count Adalbert de Chambrun, father of Count René de Chambrun, Laval's son-in-law. The board of managers was to include, in addition to Dr. Kreuter: Seymour Weller, nephew of Clarence Dillon, who had been acting as Dillon, Read's French representative; the Marquis Gabriel de Mun, former manager of the Paris office of the National City Bank of New York; and several representatives of the French banking and armaments firms. The legal department was to be managed by François Monahan, formerly with the Dulles law firm, Sullivan & Cromwell, and a business associate of Count René de Chambrun.

The rather ambitious plans of this new banking syndicate had been considerably curtailed after a storm of protest when a United Press correspondent in Vichy cabled back a description of the project in a dispatch to his papers in the United States.

A few weeks after Dr. Kreuter returned from his trip of July 1946 to The Hague another request was made for an exit permit. This time the request was turned down by the Visitors' Bureau. In a few days a trio of Dutch officials appeared at the office of Ted Ball, deputy director of the Finance Division, to ask why the exit permit had been blocked. They were told of the unanswered questions about Dr. Kreuter's SS contributions and other collaborationist activities. The three men left, but were back the next day to visit Jack Bennett on the same matter. Ball and two of his staff joined in the discussion. The Dutch officials wanted to know first what was the relation between the Finance Division and the Economics Division. Then they pointed out to Bennett and Ball that there were also certain American interests involved in the matters being discussed in the Netherlands.

Bennett replied that the Finance Division and the Economics Division were separate and co-ordinate organizations each reporting directly to General Clay. He went on to tell the gentlemen from the Netherlands that all of the military government were representatives of the government of the United States, rather than of particular "American interests." He cited the questions about Dr. Kreuter's record and suggested that they report them to the Netherlands government. If the Netherlands government wanted to renew the request after being informed of the reasons why it had been turned down, the question could be discussed further. The request was never renewed.

As we counted the number of such vaguely defined projects that occupied much of the daily routine, the Economics Division showed few signs of having a consistent plan for carrying out the objectives of the occupation. Instead there was a great deal of improvisation that followed the formula, "Here's good old Henry! What can we do for Henry and what can Henry do for us?"

On June 30, 1946, an announcement had been made at Berlin that certain restrictions on travel into Germany were being relaxed. Selected representatives of American firms which owned factories and property in Germany would be allowed to visit Germany for limited periods to make an inspection, though not to engage in direct business transactions. Throughout the war, an organization known as the Foreign Property Holders' Protective Association, representing American firms with industrial plants in Germany, Japan and enemy-occupied territory, had kept a delegation at Washington to confer with the army's Civil Affairs Division on the treatment of their overseas interests. The new rule of June 30 was in line with the recommendation of this and like groups. The Economics Division complied with the new rule by setting up a special office under a lawyer named Frank Fritts, whose job was to expedite clearances for such visits and to see that accommodations were made available.

In the absence of an agreed policy the trouble in admitting some businessmen but excluding others was not that those who came in would be crooks, but that the economic design that emerged in Germany might be full of improvisations.

One of the earliest men to come in on an inspection trip was Mr. Gordon Kern, vice president of the International Telephone and Telegraph Corporation, owner of a group of corporations which together formed the third largest electrical combine in Germany, ranking next to Siemens and A.E.G. The I.T. & T. group included principally the Standard Elektrizitäts-Gesellschaft, Mix & Genest A.G., and C. Lorenz A.G. The chairman of the board in all three was Gerhardt A. Westrick, von Ribbentrop's "unsuccessful" propagandist. He had protected the companies from seizure by German authorities by turning the top management over to SS leaders and other Nazi Party members. These men had made sure that all the companies contributed regularly to the Himmler Fund through the confidential account "S" maintained by Baron von Schröder at Cologne.

As early as 1938, with the approval of the American parent company in New York, one of the German subsidiaries, C. Lorenz, had acquired a 25 per cent interest in the Focke-Wulf military aircraft company. Throughout 1938 and 1939, the German company laid out large sums in plant expansion to take on advance orders for armaments from the Nazi government. Before the war actually started, Colonel Sosthenes Behn, then head of the New York corporation, had given Westrick general power of attorney to control the American shares in the German subsidiaries. Before the fall of France, Westrick had been given the additional power of attorney to take control of other I.T. & T. companies in the rest of Europe wherever German troops should move in.

Though Mr. Kern came in at first on a thirty-day permit, he stayed on with extensions from month to month. His activities rapidly broadened beyond "inspection" of the condition of the company's properties. Before long he had the Lorenz factory operating on a contract with the Army Signal Corps to supply repeater tubes for the long-distance telephone circuits of the American zone. When Washington cabled a query about the length of Mr. Kern's stay, the reply was that he was managing a plant supplying services considered essential to the occupation forces. Somewhat later, his activities broadened still further. We received from the postal censorship a copy of a letter written by a German patent lawyer in Westphalia to the patent attorney of an I.T. & T. subsidiary in New York. According to the letter, Kern had promised to arrange military permission for the German lawyer to go to Switzerland to discuss the "patent situation" with the I.T. & T. subsidiary in Switzerland. This much was hearsay. But a few days later a request sponsored by Mr. Kern went to the Combined Travel Board asking permission for the Westphalian attorney, who was described as old and in ill health, to make a brief visit to Switzerland to recuperate. At this point, representatives of the Decartelization Branch and the Finance Division demanded that Mr. Kern's permit to remain in Germany be canceled; but the Economics Division decided instead merely to caution him about observing the rules.

We objected not only because an American firm was "doing business" on a preferential basis, while competitors were excluded — the presence of competitors is often better than police supervision and censorship — but also because under the Potsdam Agreement, radio and electronic equipment manufacture was to be eliminated from Germany as soon as German exports of other materials were enough to pay for imports of this kind of product. To make complicated items of these types, it is not only necessary for the factory itself to be revived, but a number of "feeder" industries, tool and die shops, and other satellites also have to be rebuilt. Many of these require expensive raw-material imports. Granted that the Signal Corps needed repeater tubes, was this way of acquiring them part of a coherent and well-conceived program? Or had the historical accident of an American firm's interest contributed to the revival of this plant in preference to glass factories, leather works, or other light industries?

Preferences in reopening plants were not the only visible signs of "planless planning." We had been hearing a lot about the superior efficiency and technological skill of the "well-established" firms and their experienced management. Early in 1946 General Clay had insisted that German chemists must be put to work to

produce penicillin for the German public-health services in order to cut down on expensive imports. The Industry Branch quickly picked the biggest chemical plant in our zone, the I.G. Farben works at Höchst. They turned over to the Farben chemists all the available descriptions of American penicillin production methods.

After six months the Höchst chemists were still fumbling around. General Clay was becoming more and more acid in his comments, and the Industry Branch sent a technical team to investigate the delays. They came back with a report that new funds would be needed to build extensions to the Höchst plant before quantity manufacture of penicillin could get under way. The Industry Branch then asked me, as I.G. Farben control officer, to negotiate a four-power agreement that would allow me to turn over the equivalent of a half million dollars out of the I.G. Farben funds for preliminary plant expansions, with the expectation of turning over about ten million more before the project was finished.

At this point we decided to make some inquiries of our own. We were already having trouble with the French control officer, Colonel J. J. Franck. He was insisting that I should agree to turn over twenty million dollars in Farben funds for rebuilding the synthetic rubber facilities at Ludwigshafen, even before any fundamental agreements had been reached on plans to prevent I.G. Farben from being woven back together. If there were any reasonable alternatives it was hardly the time to open the dikes and start pouring out the equivalent of two hundred million dollars which I held in impounded funds.

What we found was that the German managers at Höchst, besides failing to find the answers to the technical problems, were sitting on the American information and refusing to allow technicians from other German chemical companies to see it. The Höchst managers wanted to keep the information as a "trade secret." They had also demanded from the Industry Branch the assurance that, if they did succeed in producing penicillin in quantity, they would be given a monopoly of German production. In the meantime, in order to establish themselves in the market, they even wanted to sell American-made penicillin under the

Höchst label. Otherwise, they said, the penicillin project would not be a commercially attractive venture.

It was not nearly so strange to us that the German management should have looked at the operation in this way, as that these facts, which we found confirmed in the report of the Industry Branch, should have been accepted without comment by military government officers. I refused to release any funds under these circumstances and Colonel Wilkinson took the issue to General Clay. General Clay, too, challenged me, "If you were a German businessman, wouldn't you do the same thing?" However, he did not order me to release any funds.

The penicillin problem was still unsolved early in September 1946 when a Lieutenant Colonel W. E. Ryan came to my office. He had just been assigned, he said, to the Industry Branch. He had been connected with the Heyden Chemical Corporation in the United States. The president of Heyden, Mr. Bernard R. Armour, he said, was interested in acquiring some I.G. Farben plants in Germany, including the Höchst plant, to add to the chain of chemical properties which his group had been buying in the United States. These latter had included the purchase from the Alien Property Custodian of the controlling interests in American Potash and Chemical Corporation, the Schering Corporation, the Ore and Chemical Corporation, and the Pembroke Chemical Corporation, all of which had been American subsidiaries of German firms.

Colonel Ryan had with him copies of correspondence between Mr. Armour and General Draper covering a proposed arrangement under which the Heyden firm would take charge of the project and would supply its penicillin expert, Dr. Gregory Stragnell, formerly of the German Schering firm, to supervise the work at Höchst.

The Heyden Chemical Corporation itself had been founded in 1925 as an American subsidiary of the Chemische Fabrik von Heyden A.G. of Radebeul, near Dresden, Germany. The German interest in the company had been seized by the Alien Property Custodian and the Armour group was now in control under an arrangement worked out with the Custodian. The Treasury Department, as well as the Alien Property Litigation Section of the Department of Justice, had been vigorously opposed to the Custodian's disposal of the Heyden and Schering properties, especially because men like Dr. Stragnell, who had had close prewar connections with Schering A.G. of Berlin, were to be active in the future management of the American firms. Our Industry Branch, however, insisted that it was necessary for them to deal with those who were best qualified to do the job, regardless of other considerations.

Negotiations with the Heyden firm continued over our objections until the middle of November, when General Draper received a letter from Charles P. Kindleberger, chief of the Division of German and Austrian Economic Affairs in the State Department. Included with the letter was a Treasury Department memorandum summarizing the objections to the establishment of new links between the Heyden group in the United States and firms in Germany.

Mr. Kindleberger said, "I am assured that Treasury does not propose to do anything about it. However, I am not unaware that memoranda such as this have a habit of well-timed leakage to certain columnists." General Draper wrote back that he "had gotten some hint concerning this general picture from one of our people here," and added that "entirely aside from these considerations, it would be obviously preferable to have one of the real leaders in the American chemical field and in penicillin furnish the supervision and know-how, provided the question of necessary capital investment in dollars can be satisfactorily arranged."

Thereupon, a new proposal was made to have the American firm of Merck & Company undertake the job, using the facilities of the German firm, E. Merck, of Darmstadt. This arrangement, in turn, would require an agreement by the Attorney General to modify a decree, entered by a Federal District Court in an antitrust case, under which further business arrangements between the American and German Merck firms had been forbidden. The struggle over penicillin went on and on for many more months.

Relying on the "leaders of the industry" was one of the formulas of the Economics Division. In the fall of 1946, George Allen, of the Reconstruction Finance Corporation, visited Germany to work out an arrangement under which loans could be extended to help stimulate production. The Economics Division for some time had been reporting that unless new capital investments and loans were poured in, German recovery would take a very long time. At first, loans and investments from private sources were out of the question because of the uncertainties of returns. To fill the gap, it was proposed at first to extend dollar credits from the RFC through two RFC subsidiaries, the U. S. Commercial Company and the Commodity Credit Corporation. These credits would be used to buy raw materials in the United States, ship them to Germany, have them processed in German factories and then sold in export markets. Part of the proceeds of the exports would be used to pay off the RFC loans. Once this business had been established with government money, it was expected that private capital could be attracted to finance this trade.

General Clay went to Washington to complete the arrangements, following George Allen's visit to Berlin. Shortly after he arrived in Washington for the discussions, General Clay became concerned over the possibility of unfavorable publicity and other repercussions if materials should be allocated to German firms which had had prominent roles in the "cartel" system. He sent an urgent cable back to Berlin. The Economics Division should "at once take steps to designate objectionable firms." Under no circumstances should these receive imported materials until they had been reorganized into groups of economically independent companies.

This cable fell as a bombshell at Berlin, because the Trade and Commerce Branch had been building its export program around the "recognized" products of the "well-established" firms, including Siemens & Halske, Robert Bosch, the I.T. & T. subsidiaries, the Wintershall potash combine, the Friedrich Flick steel plants, and others. They had been instructed months before not to turn over export business to firms that were likely to lose their plants in the reparations program, and the Industry Branch had listed plants of many independent firms as reparations.

It gave us very little satisfaction to say, "I told you so." Nearly a year before, the Economics Division had rejected our proposal to keep plants of independent firms off the reparations list as far as

possible, and to start first with plants that could be separated from the big combines. At that time we had been told that if we "decartelized" the big combines properly, there would be no difference between the plants of a big combine and the plants of an independent firm. Now General Clay's cable from Washington demanded immediate steps to reorganize the "cartel" firms whose plant facilities were needed in the export program.

We immediately drafted a proposal showing how the plant groups that had belonged to the "objectionable" combines could be made economically independent. The Trade and Commerce Branch chose instead to argue that General Clay's order would bring the export-import program to a standstill. It was not until March 13, 1947, that our "staff study" outlining the reorganization procedure was approved by the Economics Division and sent to General Clay's chief of staff.

General Clay never signed the proposed order. Gradually the restrictions against allocations of raw materials to "cartelized" firms were relaxed without a formal order, "in the interest of promoting the export-import program."

Relaxations of policies sometimes extended even to "reform" measures which had already been carried out. For example, under Control Council Law No. 9, requiring the dissolution of the I.G. Farben combine, a four-power agreement eliminated the use of characteristic "I.G." trade-marks on chemical products. The State Department had emphasized the need for such a decision, because shipping drugs and chemicals with I.G. Farben trade-marks to foreign markets, especially in Latin America, would be a violation of the "replacement agreements" of the war period. Under those agreements the Latin American countries had bought up such trade-mark rights and retired the marks from local use, or had permitted private firms to buy them and retire them.

The Trade and Commerce Branch at Berlin found two reasons why this policy "interfered with recovery." In the first place, all the pill-stamping molds in the I.G. Farben plants had the I.G. Farben trade names on them and it would delay production to change the molds and reprint the labels. In the second place, they had been counting on the "good will" of the I.G. Farben reputation throughout the world to help promote sales of the goods. If they had to adopt some new trade-mark and establish the markets all over again, the goods would be much harder to sell. Besides, there was no money for a high-powered advertising campaign to launch any such new selling venture. So, in order to get their job done, they wanted to trade on the reputation of the I.G. Farben name.

The performance of some of the "established" German firms was sometimes less vigorous on behalf of German recovery than were the efforts of our export-import officials. Under the RFC program for financing raw-material imports, the U. S. Commercial Company made an initial shipment of some hundred and ten thousand bales of cotton for processing into textiles, with another shipment of the same amount to follow shortly after. The cotton was allocated to such firms as Christian Dierig A.G., Germany's largest textile combine, whose management had played an important part in Hans Kehrl's synthetic-textile program under the Four-Year Plan. As one memorandum circulated in the Economics Division put it, "The conviction is growing on all hands that resumption of textile production and exports in Germany can work out satisfactorily only if the selling end of the business is placed in private hands, and preferably in the hands of those who were experienced in the trade before the war."

After a few months of the textile program, a minor flurry occurred when a shortage of sheets for the use of German hospitals in the American zone led to the discovery of shortages in the supply of finished textile products for essential uses and for export, as compared with the amounts of raw materials imported. At the same time, possibly by coincidence, rather large quantities of rough cotton "gray goods" began showing up in the black market in Frankfurt and other cities in the zone.

Such incidents led us to make a few inquiries about the types of controls being maintained by the German authorities over scarce raw materials and the products of reviving German industry. Cleaning up the cartels and combines was being delayed because of the need for the centralized powers of the combines and trade associations, to avoid "waste" of materials. We found some remarkable cases. For example, a ceramics factory had produced twenty-two hundred tons

of chinaware, of which one thousand tons were of first quality suitable for the export trade and twelve hundred tons were "seconds," with slight defects. Two hundred tons of the "seconds" had been sold to the army for the use of occupation families, and the other one thousand tons sold legitimately to Germans. Of the first quality chinaware, however, one hundred and twenty tons had been sold to occupation personnel through gift shops; sixty-five tons had been actually exported; and the other eight hundred and fifteen tons had "disappeared" without a trace, presumably into the black market.

The point of the story is that when these facts came out it developed that no regulation had ever been issued by military government to require German manufacturers to hold goods of exportable quality for export. None of the firms which showed up with shortages had violated a single military government regulation in using up their allocations of coal on production that never saw the light of the legitimate domestic or export markets.

The urge to cling to the "respectable" firms with "well-known" names was very deep throughout the Economics Division, regardless of what the problem was. At one point the Economics Division came under criticism for failing to dissolve agencies of the Nazi Party, including commercial firms which had been set up to carry out parts of the war program. One of these was the Nazi government-owned corporation known as "Roges," one of the subsidiaries of the Rowak Handelsgesellschaft, a government corporation somewhat like our Defense Supplies Corporation of the war years. Roges had been a stock-piling organization set up by the Nazis to gather semiprecious metals and alloys used for tool steel and other special purposes.

The question was what to do with the large supplies of these metals when Roges was dissolved.

The Industry Branch came up promptly with a solution. They proposed that the Roges stocks be turned over to the Metallgesellschaft. It would not do to turn these metals over to just anyone, because, among other things, they said that might lead to competition, which would be inflationary. The Industry Branch proposed to make Metallgesellschaft responsible for the proper use and disposition of these metals, because the company was an outstanding firm with "well-established" world-wide connections and was "strong" enough to do the job properly.

The apparent laxity of the Economics Division was partially explained by what had been happening in the United States as the export-import program got under way. Resistance to imports from Germany was developing especially from businesses that would be facing German competition in the fields of light industrial products. These products had dwindled in export markets in the prewar years. By the summer of 1947, Secretary of Commerce Harriman and other high government officials had to tour the country making speeches to chambers of commerce and other associations to persuade businessmen that the United States must be willing to accept imports from Germany.

Under the threat of "resistance" from firms in the United States, the export-import program was being shaped around specific contracts. First, the industries would be started "running," and then special contracts would be negotiated between American merchants and German manufacturers for the production of specific goods. In this way, it was said, the goods could be marketed in the United States without coming into conflict with pre-established marketing arrangements among American companies.

Here was a driving force that could, in itself, do a great deal to press the lines of German recovery back into the old patterns and grooves. To the reluctance of military government officials to change was added criticism from business interests in the United States if they did change. Through it all, representatives of particular companies — those with prewar property interests in Germany — came through in an ever-increasing stream. They not only looked, but they stayed to ask what plans military government had for the future of their companies. After I had resigned from military government, I was asked by newsmen at La Guardia field on July 24, 1947 for a statement. I cited among other things the pressure of specific American companies like General Electric and General Motors to prevent changes in Germany that might affect their properties and business interests. The next day's press quoted General Clay's reply from Berlin: "I wish that General Motors and the

others could read that [charge] so I would cease being accused of not having given them an even break."

A single isolated case might have had no visible effect on the shape of the postwar economy. But as the occupation went on, we saw more than a scattering of plants revived and put into full production, not because their product proved necessary to the orderly development of the economy and the best use of the scarce materials, but because the plants happened to belong to the Singer Sewing Machine Company, the International Harvester Company, the Chicago Pneumatic Tool Company, or General Motors; or because Swedish SKF, or Dutch AKU, or British Unilever, or American Bosch, claimed an interest in the German company; or because an American, Belgian or British company had had a prewar arrangement that made it desirable to get military government to reopen a particular line of German production.

This became what might be called a "Christmas-tree" economy. It differed remarkably from Colonel Wilkinson's picture of a strictly controlled system in the hands of the "ablest" men. Germany could scarcely be pictured as a clear, flat plain on which men of vision executed an efficient and orderly reconstruction, taking account of the realities of war damage and the postwar needs of the entire European economy. Special economic revivals were popping up all over the place. The plants of the favored firms were all decked out with priorities and ornamented like Christmas trees. Around them clustered the little satellite industries, protected by "hands off" and "do not touch" signs. Military government officials were supposed to work out their economic programs without disturbing anything.

Though the "Christmas trees" were exempt from tight control, the garden variety of Germans who were not of the industrial combines felt the full force of the controls. Military government, almost from the beginning of the occupation, put into the hands of "the Germans themselves" the strategic power to allocate coal, transport, and electricity. At the insistence of the Industry Branch, old licensing laws were kept to give the German authorities a better grip on the use of production facilities.

By 1947, our files contained hundreds of complaints from independent German businessmen that although their plants were ready to operate, they had been refused the necessary license.

A glass works in Bavaria was ready to turn out glass containers, needed to preserve the fruit and vegetable crop; but the licensing authority was in the hands of a man who came from a rival firm. That firm's factory had been bombed out. Only one license to engage in this type of business was to be issued, according to the "policy" of the German administration in Bavaria, and the license had already been granted to the firm which was not yet ready to produce.

An artificial-limb manufacturer who had been bombed out of Hamburg and had migrated to Munich in 1945 could not get a license to manufacture or repair artificial limbs in Bavaria. The appropriate official in the Economic Ministry consulted with the trade association of Bavarian artificial-limb makers, as required by the licensing law; and the association said there was no more room in the business. The outsider from Hamburg could not even get a license to repair artificial limbs of his own original manufacture, let alone make any new ones.

A master plumber who had been bombed out of Rostock and ended up in a small Bavarian town, wanted to help his friends repair their plumbing. Local plumbers had a backlog of work to keep them busy for a generation, at least. But when the newcomer tried to buy ceramic fixtures, tiles, and drain piping, the head of the trade association called all the possible suppliers and ordered them not to sell any material to this outsider.

Between 1946 and 1948, while licensing restrictions kept up barriers against newcomers, many more "Christmas trees" dotted the German countryside, all with well-known trade-marks. Late in 1948, just before the scheduled arrival of an investigating commission appointed by the Secretary of the Army, military government put into effect a directive we had prepared back in 1946 to order the repeal of the licensing laws. The policies cited in support of the directive had been unchanged since the beginning of the occupation. Military government officials offered no explanation for the two-year delay.

CHAPTER 17

Double, Double Toil

LATE in October 1946 the Senate War Investigating Committee, then headed by Senator Kilgore, sent George Meader, the committee's counsel, to investigate charges that some of the important policies for the occupation were not being carried out. General Clay, displaying his usual courtesies to important visitors, welcomed the investigators and instructed all of us at the Saturday morning conference to co-operate fully in the investigation and withhold nothing.

One of the first things the investigators discovered was that negotiations having equal effects on the occupation were being carried out in two quite different channels. If any branch or division wanted to initiate action of any sort, the staff had to prepare a "staff study." This required a written discussion of the problem, together with annexes containing supporting documents, and a draft of the letter to be signed or the order to be issued. All of these papers had to be circulated to other interested divisions and branches for "concurrence" before they went to the head man for signature. Some division directors found this formal procedure cumbersome. They had developed a channel of their own and transacted important official business simply by dispatching letters on a "Dear Bill" or "Dear John" basis to former business associates and friends in the government. Military government had developed a split personality. Outwardly, most policies remained exactly as they had been from the start of the occupation; but the principal opponents of reform policies began quietly to propose moves that went in the contrary direction, as if they were confident that changes were coming.

After the Republicans won a congressional majority in the November elections of 1946, the Republican members of the War Investigating Committee released Mr. Meader's preliminary report, together with the hundreds of documents the investigators had picked up at Berlin. The findings of the Meader report began to break in the American press on December 3. The full details did not reach Berlin for several days. When they did, it was clear that military government was operating in such a way that serious clashes over policy had continued for many months without being resolved. This was particularly true of the policy of breaking up economic concentration.

Actually the question was not whether our colleagues were working on or off the record in favor of policy changes, but whether we had a right to insist that the policy — whatever it was — should be clear, and that public statements about what we were doing should be accurate.

On December 7, 1946, fifth anniversary of the day President Roosevelt said would live in infamy, Philip D. Reed, chairman of the board of the General Electric Company, arrived at Berlin on a mission he had undertaken at the request of W. Averell Harriman, Secretary of Commerce. Secretary Harriman wanted to know what the Commerce Department could do to help military government with its economic program. General Draper arranged a meeting with Mr. Reed in the office of Jack Bennett, General Clay's financial adviser. The purpose was to discuss obstacles which stood in the way of German recovery so that Secretary Harriman, as a member of the cabinet, could help remove them.

After preliminary remarks to the effect that the limitations imposed by the Trading with the Enemy Act, the denazification program, and the decartelization policy were a handicap to German recovery — however necessary they might be for other purposes — General Draper introduced Richard Spencer, head of the Patent Section of the Legal Division. Since the Patent Office is part of the Commerce Department, Mr. Harriman would be interested in the defects in American plans for dealing with German patents. Mr. Spencer launched into a twenty-minute diatribe against a policy which was actually that contained in a directive approved by President Truman on September 17, 1946. He did not indicate, however,

that it was the official policy which he was attacking. He expressed himself as setting out the "military government" view on patents.

At the end of this speech General Draper turned to me, five minutes before we were to go to lunch, and said: "Now Mr. Martin has some other views on patents, and perhaps we ought to hear from him." These "other views," thus introduced as though they were a personal product, were those contained in the presidential directive. Even this brief discussion was interrupted by a cross-fire from General Draper and Mr. Spencer; and when I talked to Mr. Reed after the meeting, he was still quite confused about what the directive had told military government to do.

The purpose of the patent policy was to set the conditions for reopening the German patent office without allowing patent pools and restrictive patent licenses to give German groups a new whip hand in world economic affairs. The American forces at Berlin were instructed to work out a four-power agreement on changes in the German patent laws before the patent office was allowed to register new inventions and grant the inventors the usual monopoly of production and sales. The German patent system had developed without a context of other laws, such as antitrust laws, to protect the public against discriminatory uses. The Patent Section of our military government objected to the inclusion of anything in the German patent law that was not already in the patent laws of the United States, even though the policy had been framed at Washington with full consideration of the great differences between the German and American legal systems.

Mr. Reed's report to Secretary Harriman recommended a complete review of the patent policy. After months of argument at Washington, however, the Executive Committee on Economic Foreign Policy in May 1947 reaffirmed the basic directive. In the meantime the other elements at Berlin, especially the French and British, had used the dissension in the American ranks to carry the argument in another direction.

We had already run into trouble over the I.G. Farben patents in the latter part of 1946, because the French showed a growing distrust of our intentions. According to one report prepared by a committee of the French National Assembly, they felt that we were talking about breaking up the Farben combine, while other Americans were getting ready to make a good thing out of exploiting the Farben processes without having to pay patent royalties. The British, too, had ideas about what we intended to do with the Farben patents. The presidential directive had instructed us to eliminate the restrictive licensing schemes of firms like I.G. Farben. If we could not get agreement on a less drastic means, we were to suggest complete dedication of the patents to the use of the German public. But the British evidently suspected us of trying to maneuver them out of control of the "Bayer" processes, centered in the big British zone plant at Leverkusen, as part of a drive to capture markets for American firms. So they held that the patents were valuable assets of I.G. Farben, and that we had no right to "destroy" their value by eliminating the monopoly feature.

Both the French and British I.G. Farben control officers asked me how I came to hold views on patents which were so different from those of my colleagues in the Economic and Legal Directorates. Puzzled by the split in the American camp, they insisted on complete restoration of the patent privileges of the I.G. Farben pool. Compromise was practically impossible because they felt that if they held on long enough the American position would change; and if they did not, they might in some way be "outfoxed."

The Soviet control officer, Colonel A. C. Bayar, strongly supported the view that the Farben patent monopolies would have to be eliminated. However, he appeared to find the split on the American side more amusing than sinister, partly because Soviet foreign trade was little concerned with "patented" items, and partly because his wartime position with the Soviet Purchasing Commission in the United States had made him familiar with family squabbles in American government agencies.

With the inconclusive end of our patent discussions in Jack Bennett's office that December day in 1946, our entire group adjourned for lunch at the Harnack House. We were joined by the other branch chiefs of the Economics Division and by Sir Cecil Weir, who had succeeded Sir Percy Mills as president of the British economic subcommission. An undercurrent was provided by Colonel Lawrence Wilkinson, head of the Industry Branch, who had a copy

of the *New York Times* for December 5, 1946. A Washington dispatch described in some detail the documents and copies of correspondence which I had furnished the Meader investigation at Mr. Meader's request. Some of these were decidedly critical of the Economics Division's handling of developments in the cartel field up to that time. General Draper showed no outward sign of the agitation he later expressed over my statements, however, and the conversation turned quickly to the issue of German currency reform. This was rapidly supplanting the cartel and patent policies as a subject of debate.

The contingent from Economics undertook a characteristically bold treatment of the fiscal policies that were getting in their way. In the case of currency reform the American official directives from Washington had proved inconvenient to the Economics Division, even though actual negotiations were in the hands of the Finance Division and Financial Directorate. The head of the Finance Division, who had not found it hard to understand what Washington wanted to accomplish, was somewhat surprised to hear several from Economics suggesting the possibility that Sir Cecil Weir might arrange to have certain points raised by the British in the four-power discussions, inasmuch as the directive from Washington would prevent the Americans from raising these points directly. It would then be possible to cable Washington to the effect that the British were insisting on a different solution, and to ask for authorization to change the American position in order to reach a compromise with the British.

As I listened to this talk certain phrases from the *New York Times* dispatch of December 5 kept coming back to me: "The documents . . . seemed to represent a cross-section of the American way of doing things in Germany — virtues, faults, bungling, conniving, suspicion and loyal adherence to the American program. That is what access to a good sampling of the papers indicated today."

General Clay returned to Berlin from Washington in the middle of December at the conclusion of the bizonal merger talks. He had also appeared before the Kilgore Committee to answer questions that rose out of the Meader report. We discussed briefly the charges I had made during the Meader investigation, which were the same as those we had discussed on several occasions throughout the summer and fall of 1946. General Clay wanted to know if it would not be possible to avoid further public outbursts on these issues.

I could suggest only one way, which was to have all matters that concerned economic concentration and cartels referred to the Decartelization Branch. We did not like to find out about such matters through chance, after action had been taken by the Economics Division. The issues would be kept clearer if decartelization were removed to another division rather than kept in Economics, where the program was a constant source of friction. I offered to resign if that would help to carry through a reorganization with less embarrassment to General Clay. He declined the resignation because, as he said, "I like you and I like your work." But he insisted the turmoil over the Meader report had made a reorganization impossible, at least for the present. General Clay had no suggestion for improving our situation other than that, as a first step, we do everything possible to bring out a satisfactory decartelization law.

General Clay's reluctance to bring the outstanding issues to a head was disappointing. A question of executing or not executing written instructions from Washington was being silted over by what some people might come to consider personal feuding. But in the end we did have a "standstill" agreement to focus the arguments onto specific issues. The Economics Division was to give the Decartelization Branch an opportunity to comment on criticisms of the cartel policy contained in official papers. Previously, "action" papers prepared in other branches had contained statements that the position of the Decartelization Branch was this or that, usually attributing to us an unreasonable position which our staff would have been the last to adopt. In some cases, cabled inquiries from the State Department about discussions in our four-power committees had been answered without any help from the participants.

Imperfections in the standstill agreement became evident very soon. Philip D. Reed's report to Secretary Harriman attacked the decartelization policy as the work of "extremists" from the Department of Justice, and ignored the fact that the policy itself had been set down by the Big Three at Potsdam. The Reed report went on to say that decartelization was hampering German recovery, but cited no evidence to support the statement. Its conclusion was that the enactment of a law to prohibit "excessive concentration of economic power" in Germany would be harmful and unnecessary. The prohibition of "cartels" was an idea peculiar to the United States, and was not shared by the British, French, Russians, or other Europeans. Until an international agreement on the subject should be reached through the United Nations, Germany ought not to be saddled with "antitrust" laws.

Copies of this report, almost every statement of which was easily subject to refutation, were received by General Draper but not circulated to the Decartelization Branch. I got a copy later from the Finance Division.

General Clay, on his return from the bizonal talks at Washington, appeared to consider himself bound to change course and issue no decartelization law for our zone without the concurrence of the British. In General Clay's absence, General Draper had initiated some discussions with Sir Cecil Weir to see whether a compromise law could be worked out. He had reported these talks by cable to Washington. This, in turn, appears to have led Will Clayton or members of his staff to suggest that unilateral action for the United States zone should be abandoned. Though both the French and Soviet military governments were preparing to issue laws similar to the three-power draft of August 1946, we had to start drafting a new version in consultation with Sir Cecil Weir and Brigadier Oxborrow. As a result, the French broke off the attempt to stay within the terms of the draft which had been agreed upon by the French, Soviet and American delegations in the four-power discussions. They later issued a law of their own, framed in terms of French law, while the Soviets likewise set up a different system. That was the end of any likelihood of arriving at a uniform treatment of the problem, though four-power discussions continued for another year. By August 1947 those discussions had produced a new three-power draft agreeable to the American, French and Soviet governments and much closer to the British version. This was a further attempt to meet British objections by drafting a four-power law whose chief provisions were modeled on the British military government's own drafts. But the British continued to disagree over methods of carrying out such a law, and this final attempt at four-power agreement failed.

We had no difficulty in reaching agreement with the British on a common text of a law to be carried out in the two zones of "Bizonia," once the decision had been made by General Clay to drop the idea of a "mandatory" law. By February 1, 1947, we had worked out with Brigadier Oxborrow a new draft law prohibiting specific practices in restraint of trade and also providing for investigation of all German firms employing more than ten thousand persons. If any such firms were found to represent an "excessive concentration of economic power," they were to be reorganized and separated into workable but independent economic units. This law was issued on February 12 as Military Government Law No. 56 for the United States zone, and a similar text as Ordinance No. 78 for the British zone.

Early in February, opposition from an older and more familiar quarter showed itself. We had been so absorbed with details of passage of the law that the chief problem — controlling the mainspring of German economic warfare — had been briefly eclipsed. The reminder came with Herbert Hoover's visit to Germany at the suggestion of President Truman. Though he had been asked principally to study the German food problem, Mr. Hoover fanned out very broadly into all phases of economics and politics. A restatement of the traditional German resistance to reform was the result. The specific problems of feeding occupied only one part of his report. The principal focus was on general economic problems, and on these the advice came from the late Gustav Stolper, former German economist, who was at Mr. Hoover's elbow throughout the trip.

At Berlin there was the usual "briefing" of the Hoover party by the Economics Division, with the bulk of the time allocated to problems of German reconstruction and a brief period at the end for problems of economic power. This time there was a difference. After representatives of the Industry and the Trade and Commerce branches had made their usual remarks about the hampering effect of the anticartel program, the Decartelization Branch representative replied by describing the new law. Thereupon Herbert Hoover

remarked that he could see nothing wrong with such a law, and thought an "antitrust law" might be a very good thing in Germany.

After the "briefing" Dr. Stolper showed some agitation over Mr. Hoover's remarks. He circulated among the group, arguing that the new law was a "very bad" thing for Germany. It was just like the denazification policy. The main job of denazification had been done by Hitler himself when he committed suicide. Even the hanging of the other top Nazis had gone too far. The same was true of the cartels and combines. The war had ended Germany's "concentration of economic power." Decartelization and other such reforms were in reality aimed at destroying Germany and the German character, including the many good things in the German tradition.

The text of the Herbert Hoover report of 1947 did not reflect any of Mr. Hoover's favorable remarks about "antitrust" laws. The report concluded that concessions must be made to the old-line financiers and industrialists in order to obtain the help of their management abilities in European recovery. The "reform" policies showed up as deterrent to recovery.

At the time of the Hoover report, the fear that the decartelization law would stop German recovery was like a horse's fear of a scrap of paper. Law No. 56 was still nothing but paper and printer's ink. Until enforcement machinery was set up no German was obliged to do anything. The law was a declaration of intention to carry out something that was already in the Potsdam Agreement and in the Joint Chiefs of Staff directive.

We began the long process, again through the "staff study" routine, of getting the concurrence of the rest of the Economics Division on proposed procedures to carry out the law. We could see at the beginning that this might be just as big a job as getting approval of the text of the law itself; so we divided up the work among the different parts of our staff. The deputy chief, Phillips Hawkins, undertook to work out with the British and with the Economics Division the organization of a bizonal enforcement agency and a set of procedural rules for bringing cases under the law. The four assistant branch chiefs undertook more specific jobs.

Johnston Avery, who had joined our staff at Berlin from his former position as executive officer of the Antitrust Division, prepared an enforcement program. Creighton Coleman carried the four-power negotiations and also prepared drafts of supporting legislation that would have eliminated large holding companies, interlocking directorates, the issuance of "bearer" shares, and other foundations of concentrated power. Captain Francis W. Laurent, a retired naval officer from the Navy Department's legal division, began to prepare draft orders to require the reorganization of the outstanding big combines in our zone. Colonel Richardson Bronson, deputy I.G. Farben control officer, was to carry further the Farben reorganization. Finally, all the staff was to contribute material to a four-volume *Report on German Cartels and Combines,* to be edited by Charles C. Baldwin, formerly of the Economic Warfare Section of the Department of Justice.

Our objective was to prepare as quickly as possible some actual cases involving German combines whose structures and past history made them unquestionable examples of the "excessive concentration of economic power." We would push for definite action to reorganize these combines, and at the same time prepare a full discussion of all the big combines and their place in Germany's distorted industrial development of the period between wars. We wanted to throw as much light as possible not only on the problem but also on what we were trying to do.

We had discovered an almost pathological fear of the light of publicity in some parts of the Economics Division. Men who basked in press handouts and glowed warmly under the light of favorable publicity turned pale when confronted with a pertinent direct question from a seasoned press correspondent. Delbert Clark, head of the Berlin bureau of the *New York Times,* was such a correspondent. After watching the reaction in the Economics Division to a series of Clark's stories, one observer remarked, "They would cheerfully give three weeks' rations of PX cigarettes to avoid being mentioned in one of Delbert Clark's dispatches." A carton of PX cigarettes at the time had a barter value of about $100. Another correspondent who had covered the earlier phases of the occupation with considerable effect had been Edd Johnson of the *Chicago Sun.* Johnson's dispatches had cited case after case where official acts did not jibe with official policies. His final interview

with Russell Nixon in January 1946, just before Nixon left Berlin, became a classic in blowing the lid.

In our favor was the fact that the official policy in our field had remained unchanged for the first two years of the occupation, and had been restated on many occasions by General Clay even after the conditions of the occupation had begun to change. We knew that if the policy was sound and if the program was sound, either we would get some results or someone sooner or later would want to know the reason why.

Three volumes of the four-volume report were in rough draft form by March 1, 1947; but we then discovered that there would be difficulty in publishing such a report. It would have to be "edited" by the Reports and Statistics Branch of the Economics Division and then cleared with "all interested branches and divisions" before publication could be approved. This might take months, and even then the Economics Division would have the final word on what material was included. We also found that we faced a possible "stop order" preventing the staff from doing anything further on the report until it had been cleared. At this point we commandeered every typewriter and typist in the branch and in one day cut five hundred eighty-four mimeograph stencils to get out a draft copy of the full report. Charles Baldwin found a German print shop to bind some two hundred copies, which we immediately distributed as widely as possible to government agencies. It was a "draft submitted for comment only," and not an "official" document.

Early in April 1947, the State Department asked for my return to the United States on temporary duty to discuss our report and our proposed program of action under Law No. 56. I flew back and spent several weeks on these discussions. It was apparent from the first that the changes in Congress after the November elections of 1946, more than the changed conditions in Germany, were responsible for the growing confusion on German policy matters. The mood was not so much one of change as of indecision.

We needed an issue that would crystallize the points of indecision. Was the United States still opposed to the centralization of German economic power? On May 3, a Berlin dispatch announced the end of another in a series of tours of Germany and Austria which the

War Department had been sponsoring to enlighten influential people about the problems of occupation. In this case, as the *New York Times* put it, "Fourteen top business executives of the United States concluded today a two weeks' tour of the key cities of Germany and Austria. They made the trip at the request of Secretary of War Robert P. Patterson to study German industry and the Military Government's industrial program."

The War Department on May 8, 1947, released the report prepared by the fourteen top business executives. The statement began by affirming their "complete and unanimous agreement" with the conclusions of the Herbert Hoover report. On the basis of their two weeks' tour they found it a "masterful summary of the situation in Germany." Then the executives presented their first recommendation. They said:

> We now set forth several major issues with which the Office of Military Government has to deal, together with our comments and suggestions thereon.
>
> 1. *Decartelization.* Law 56 and Regulation No. 1 embody a series of controls and regulations, many of which represent economic principles quite new to the German mind and to the past industrial development of the country.
>
> Since we are now confronted with the urgent necessity of bringing about as rapidly as possible recovery of the economic life of a starving people — it is our belief that too strict adherence to the Law in its administration will seriously retard this primary objective.
>
> With no desire to criticize the principle of this law as it has been written — we do, however, recommend, if at all possible, that the enforcement of these regulations be postponed, or at least substantially modified, until the industrial economy is in a reasonable state of operation.

Other recommendations included the need for "incentives" to German industry, agriculture and labor, the promotion of exports, the downward revision of reparations, the end of denazification, and change in the level of industry.

I discussed this report with the Attorney General, Tom Clark. A few days later Mr. Clark was approached on another matter by

M. S. Szymczak, a member of the Federal Reserve Board who had been serving in Germany first as head of Trade and Commerce and later as director of the Economics Division after General Draper moved up to become Economic Adviser to General Clay. Among other things, Mr. Szymczak raised the question of modifying the antitrust decrees in the Merck case so as to allow the Merck companies to co-operate on penicillin production in Germany. Mr. Clark in return suggested that there should be first a general discussion of the decartelization program. He asked Mr. Szymczak to arrange an informal conference with representatives of the State and War Departments, to be held in the Attorney General's office on May 20. Willard Thorp, Assistant Secretary of State for Economic Affairs and two members of his staff attended for the State Department, and two men from the Civil Affairs Division for the War Department, in addition to Mr. Szymczak and myself.

At the end of a brief discussion, the Attorney General asked me to prepare a memorandum setting forth the views I had just stated and with which all those present had concurred. He wanted to submit my memorandum for discussion at a meeting of the cabinet on May 22.

In brief, I said that we wanted to know first whether the cartel policy had been changed, and if so, what the new policy was. Secondly, whatever the policy might be, we wanted military government to be instructed to carry it out instead of debating it. In particular, I pointed out that the report of the fourteen industrialists was based not on direct observation but on the "briefing" which all such groups had been receiving from the Economics Division at Berlin.

The Attorney General told me after the cabinet meeting that the members had agreed with the substance of my memorandum and had seen no reason for changing the government's policy on decartelization. This conclusion was then made official in a new version of the JCS 1067 directive, which had been undergoing revision to take account of changes during the two years of occupation.

The new directive of July 15, 1947 stated: "Pending agreement among the occupying powers you will in your zone prohibit all cartels and cartel-like organizations and effect a dispersion of ownership and control of German industry through the dissolution of such combines, mergers, holding companies and interlocking directorates which represent an actual or potential restraint of trade or may dominate or substantially influence the policies of governmental agencies. You will not, however, prohibit governmental regulation of prices or monopolies subject to government regulation, in fields where competition is impracticable. In so far as possible, you will co-ordinate your action in this field with the Commanders of other zones of occupation."

After the cabinet meeting of May 22, I cabled my resignation to Berlin. I knew that the policy was being reaffirmed on paper; but no official notice was being taken of the fact that its execution had been deliberately delayed. My resignation would make it impossible for those in charge to attribute their delaying tactics to alleged "feuding" between the chief of the Decartelization Branch and the Economic Adviser to the Military Governor. I hoped that General Clay would appoint a new chief who would be, beyond question, *persona grata* to the Economics Division. He appointed my deputy, Phillips Hawkins, whose engagement to General Draper's daughter had been announced during my absence.

In a final note to General Clay on July 14, 1947 I reviewed the Economics Division's record of obstruction to the program which General Clay himself had said he approved. I concluded by saying, "My decision to return to the United States was based upon a desire to contribute to the clarification of United States policy on cartels, monopolies, and concentrations of economic power. It is my feeling that such efforts will be more likely to succeed if they are vigorous, but constructive rather than recriminatory; and therefore I have no particular desire to engage in unnecessary argument about the past performance of the Economics Division unless called upon to do so."

CHAPTER 18

The Decline and Fall

GENERAL Clay exhibited a well-developed historical sense. Yet a future generation of historians may find that, ironically, it was this sense of history, combined with the lifetime habits of a military career, that contributed most to the defeat of the occupation. General Clay, in my first talk with him in January 1946, said that he was determined to make the four-power occupation succeed. He was convinced that failure to make four-power government work would be a catastrophe, and perhaps the biggest single step toward a third world conflict.

The end of battle in 1945 had signaled the start of a new kind of war — a post-war. Germany's classical military theorist, von Clausewitz, is famous for having declared that "war is the continuation of diplomacy by other means." In dealing with a Germany which had gone to school with von Clausewitz for generations, we knew that, conversely, a post-war is the continuation of war by other means. Since Bismarck, wars and post-wars have formed a continuous series, changing the quality of the events only slightly from year to year, with no such thing as a clear distinction between heat of battle and calm of peace. This post-war of the German occupation was different from the "cold war" between the United States and Russia, which broke out at about the same time. The latter complicated the diagnosis, like a man getting typhoid fever and pneumonia at the same time.

In the first years of the occupation of Germany, the two struggles had not yet become confused. General Clay said the best contribution we could make to peace would be to get four-power co-operation in carrying out the agreements for the control of Germany.

Later, others with less historical sense began to support anti-Russian Germans on the theory that "any enemy of Russia is a friend of the United States." The two wars became interwoven, and men who saw no difference came to make up the effective bulk of General Clay's staff. When the Economics Division chose to ignore agreements to limit heavy industry and expand light industry, this departure was "necessary" to build up a strong Germany. When the French or Russians objected to economic "unity" under the leadership of old-line Ruhr coal and steel men, the same people held that failure of the French and Russians to live up to the Potsdam agreement for economic unity was an act of international bad faith. Here, instead of cracking down on his own staff, General Clay let the pendulum swing. He allowed his sense of history to tell him such developments were inevitable.

On our last day in Berlin, July 24, 1947, my wife and I invited General Clay to lunch with us before we left for Tempelhof. For about two hours we exchanged views on where everything was heading. It was a more illuminating kind of talk than the business conversations and social chatting during the previous year and a half. General Clay explained some of his ideas about the course of history, with several references to works like those of Arnold Toynbee, describing the patterns through which civilizations have developed and changed. Among other things he mentioned that he had been through the last occupation of Germany, too. With his wry sense of irony he said that we had done a better job in the present occupation: within the first nine months we had made mistakes that were not made in the former occupation for nearly two years. We asked him to account for the difference. Why did it seem that, far from having learned a lesson from Germany's part in World War I, people were pressing to repeat the same mistakes sooner?

General Clay answered that the last time, one man, Woodrow Wilson, pointed the objective that he wanted to reach. Even though Congress later disavowed the objectives and turned the policies about, still in the first years of the occupation it was possible to know what "Washington" wanted. In this occupation, an unwritten law had decreed that all statements of policy must be bipartisan, supposedly to avoid the possibility of repudiation of a Democratic administration's acts by a Republican Congress. But this meant that on many critical points the statements from "Washington" had included contradictory points of view.

It was one thing, he implied, to believe in his own mind that the objective was clear, and another thing to charge any of his subordinates with violation of orders if they adopted different interpretations. I knew that this much was true. For example, the policy against renewed emphasis on German heavy industries was subject to an all-inclusive exception for acts necessary to prevent "starvation, disease and serious unrest." The Economics Division had invoked this phrase to justify all manner of departures from the spirit of the Washington instructions, and to fly in the face of the Potsdam agreement, merely asserting that each exception was necessary to avoid "disease and unrest."

General Clay did not flatly admit criticism of his subordinates, and especially did not mention the Economics Division; but the implication was that he had tolerated the undercutting of his own policies because of these verbal formulas. The total effect was failure to carry important objectives; but each step had had a plausible ground in the wording of the directives. General Clay offered no explanation of his failure to cut through the wordy arguments and put the official policies back on the track. We left Germany with that question unanswered.

It was a fair guess that confusing the cold war with the post-war was leading to competitive wooing of the most strongly entrenched German elements. That would mean the end of reforms — not merely the end of decartelization and denazification, but of land reforms, intensive agriculture, the rebalancing of heavy and light industry, political decentralization, re-education, and the others. But the "civilian" and "military" habits under such circumstances are sometimes different. A civilian may fight back on a matter of principle; and if defeated will resign. The military habit is to argue back until stopped by a direct order from higher authority, and then knuckle under. General Clay, sensing a swing of the pendulum or a wave of the future, had held his fire in cases when he, as "higher authority," had the power to give a direct order. As a result he was steadily losing both civilians and officers who had been in charge of the "reform" programs. The fights for the reform programs looked like mere quarreling if the opponents of reform were not declared "wrong." Yet the reform policies remained "unchanged," while the reforms were totally blocked.

My own resignation made me the third director of the cartel program to withdraw after what newsmen persisted in describing as a "bitter feud." Colonel Bernstein and Russell Nixon, my predecessors, had had the same experience. But the cartel program was not the only one stopped in that way. Dr. John H. Canning, deputy chief of the Food and Agriculture Branch, left his position in August 1947, declaring that the farm program had been completely mismanaged through lack of authority to carry out reforms. His chief, Brigadier General Hugh B. Hester, left a little later at the end of a long but unsuccessful struggle to establish a food program in line with the directives. General Hester had been one of the most outspoken officers around General Clay's table from the beginning of the occupation. He finally applied for an army assignment to another command after General Clay disapproved his basic program for increasing the productivity of farms in our zone. Dr. John W. Taylor, president of the University of Louisville, resigned as chief of the Education Branch after finding every pathway blocked. While resignations took many, reductions in staff took many more. When divisions like Economics were ordered to reduce their total staff, the "reform" agencies took the biggest cuts.

Even the few steps taken to rebalance heavy and light industry bogged down. General Clay in 1946 had halted all but a minimum of dismantling and removal of plants from the American zone under the reparations agreement, and the British did likewise in their zone, until the effects of disagreement with Russia over "economic unification" should be determined. In 1948 British and American authorities announced that 682 plants, worth about $203,000,000, would be made available for reparations as the first step in the delayed reparations program. Sir Brian Robertson, the British Military Governor, pointed out that these removals were so small as to be practically insignificant. There were approximately 50,000 plants in the British zone, of which 496 were included among the 682 to be taken from the British and American zones. He said, "Admittedly, some of the 50,000 are small plants — so are some of the 496."

A wave of protest, not only from Germans, but from sources in America and Britain, soon stopped the program once more. Organized groups denounced the reparations program as uneconomic and unrealistic. General Clay this time came to the defense of the dismantling program. He said, "It is my own belief that a considerable quantity of these plants that are to go into reparations can, in fact, be placed in production elsewhere quicker than in Germany and, if that is true, would provide an increase in European production which is so essential for the economic recovery of all Europe." He pointed out that with the shortage of coal, practically all of these plants were lying idle and could not, in any event, be used in Germany for a long time to come.

The shock and outrage felt by German sympathizers in the United States over the resumption of dismantling was shared only slightly by the German business community. Ernst Matthienson of the Dresdner Bank in Frankfurt said that when early reports leaked out indicating that a reparations program was to be resumed, the stock market fell. When the list was finally announced, however, "we saw that it affected a small portion of German industry. It was what you might call an 'agreeable disappointment.' The market recovered quickly."

Even the token removal of 682 heavy industrial plants was cut down. The Economic Co-operation Administration sent an industrial advisory committee in November 1948 to examine 381 of the 682 plants, to see if some could be used for German recovery. The committee recommended retention of 167 of these, pointing to the "incongruity of dismantling and removing equipment at the same time that we are trying to promote [German] industrial recovery." The committee overlooked the purpose of the reparations program, which was to shift some heavy industry to other parts of Europe, while lighter industries were to be rebuilt in Germany.

During 1948, the United States poured in $650,000,000 and Britain $70,000,000 to "prevent disease and unrest" in Germany, and the Economic Co-operation Administration supplied another $400,000,000 to help expand industrial production. The use of nearly three quarters of a billion dollars to avoid disease and unrest, largely through food shipments, was itself incongruous in the light of what had happened to the food and agriculture program. Not only did General Clay refuse to approve agricultural reforms, but his military government was not permitted to enforce the equitable distribution of food. In 1947 and 1948 the bizonal area had a German population of 42,000,000, about 33,000,000 living in cities and 9,000,000 in rural areas. During this time, food raised in Germany was actually delivered from the farms to the markets at the rate of 1645 calories per day for each of the 42,000,000 inhabitants, if evenly distributed. Shipments from the United States during this period included four and one-third million tons of food, largely bread grains, equivalent to 945 calories per day for each of the 42,000,000 inhabitants. This was an over-all average of 2590 calories per day for all inhabitants, even including the 9,000,000 rural inhabitants who were normally self-sustaining. The items included in this count comprised the basic foodstuffs: wheat, potatoes, milk, meat and fats, and sugar. Other foods like vegetables, fruits and fish obtained in Germany simply added to the total. If military government had maintained an adequate staff to supervise German food authorities, and had done nothing more than see that these foodstuffs went to the 33,000,000 city-dwellers, the domestic food in the city markets would have averaged 2100 calories per person, and the imports from the United States 1200 calories: an over-all average of 3300 calories of basic foodstuffs, more than double the "starvation" figure of 1550 usually cited.

Yet there were food "shortages" in German cities. By order of General Clay, military government by the end of 1946 had stopped employing American food and agricultural inspectors, except for a dozen American officers and civilian employees for the whole zone. By the middle of 1947, spot checks in parts of the American zone had indicated that estimates furnished by German farmers figured their crops too low by as much as 60 per cent, and that actual farm-to-market deliveries varied quite substantially from official estimates and quotas. Thefts of imported grains were running as high as 10 per cent in transit between the ports of Bremen and Hamburg and the cities of the Ruhr.

German officials had nothing to gain by antagonizing their constituents with enforcement activities, especially when the only effect of their bungling was to increase donations of food from the United States. Early in 1947 General Clay told the German ministers-president at a meeting in Stuttgart that they had bungled the food program and that the degree of co-operation among themselves and with the military government was "less than at any time in the past two years."

A battle was being waged among the occupying powers to see who could win the support of "the Germans themselves." In Bizonia, a German economic administration was vested with constantly widening powers to shape the industrial and commercial development of the area under United States and British control, with the military governments restricting themselves to "observation and advice." The effect in Germany was the same as if the original architects of the New Order had been in charge.

The bizonal German administration was not long in becoming the rallying point for extreme conservatives and others committed to a plan of centralization. By the spring of 1948, Robert Pferdmenges, the Cologne banker, a long-time associate of Franz von Papen, Friedrich Flick and Hjalmar Schacht, and the richest man in postwar Germany, was reported to be in the midst of negotiations with the French de Wendel family to arrange joint Franco-German ownership in certain Ruhr industries. Two years later he was one of the first men named by Chancellor Adenauer to negotiate with the French when Foreign Minister Schuman proposed a coal and steel pool, supposedly as a means of avoiding the old cartel. While he did not take an official post in the bizonal administration, Pferdmenges remained very close to his German associates who did, including Ernst Helmuth Vits of the rayon combine and Heinrich Dinkelbach of United Steel, both of whom assumed control of their respective fields for the new administration.

Baron Freiherr Edouard Otto von Maltzan, who became chief of the export-import division of the economic administration, had served as a member of the Franco-German armistice commission. Previous to that time, he had served in the foreign affairs department of I.G. Farben, under Max Ilgner.

When the military government approved setting up a bizonal

German bank, the Bank Deutscher Länder, the German board of directors proposed Hermann J. Abs, of the Deutsche Bank, for president. For chairman of the board they proposed August Schniewind, formerly a director of the Reichsbank under Dr. Schacht. Schniewind in April 1948, when the new bank was being set up, was serving as liaison officer for the European Recovery Program under the bizonal economic administration. Both Abs and Schniewind declined to take posts in the new bank unless they were given the power to override the eleven-man board of directors in certain cases. Military Government balked at going quite that far; but Schniewind then became the chairman and Abs the deputy chairman of the Reconstruction Loan Corporation, a government corporation with power to select the private firms that were to get loans for industrial expansion.

Dr. Johannes Semmler was one of the few whose opposition took a form that General Clay's military government would not tolerate. Dr. Semmler was ousted as chief of the bizonal economic administration after he made a violent public speech denouncing the policies of the bizonal occupying forces.

Dr. Schacht, the financial mastermind of the Nazi era, was acquitted at Nürnberg in 1946 of charges that he had participated in waging "aggressive war." His contribution had been the plan of economic war that set the stage for the shooting war; but he had left the Reichsbank before the shooting began. One of our men, Richard Kirby of the Düsseldorf detachment, interviewed Schacht at the prison in Stuttgart where the financial doctor was awaiting "denazification." Schacht said that if he were given three weeks, with access to his personal files and thirty or forty sheets of paper, he could present a plan for postwar German recovery that would not cost the occupying powers a dollar. He refused to go into details unless he could talk directly with officials at the top who would have power to put his plan into effect. To Kirby he would give only a brief sketch.

In outline, Schacht's idea was an economic union of Germany with other European countries, with some control of prices but without the general lowering of trade barriers which characterizes a "customs union." Germany would become the industrial center

of such an economic federation, and would produce machinery and heavy equipment in exchange for food and consumer goods. Under this plan, American and British interests would be admitted to joint ownership with the former German owners and managers of the big industries, especially in the Ruhr. This was to be "international control of the Ruhr" in reverse, with a German group taking the key position in an international organization that would control all basic industries of western Europe.

Though Dr. Schacht's plan was not immediately accepted by the occupying forces, Schacht himself was declared by the American military government in 1949 to be eligible for responsible administrative posts in German agencies. The position taken by the western German government in negotiations with the French over the Schuman plan in 1950 bore a striking resemblance to Schacht's ideas about Germany's place in a European economic union.

The increasing boldness of German proposals in the later years of the occupation went along with the growing uncertainty of American policies. During the first years, while many things that were happening seemed inconsistent with the objectives of the occupation, the guiding policies were said to be unchanged. By the end of 1947, the arguments for a "new policy" came out into the open.

Early in 1947 a cable came from the War Department to General Clay with the news that Lewis H. Brown, chairman of the board of the Johns-Manville Corporation, a firm of the Morgan group, proposed to visit Germany to offer advice about how to get German industry on its feet. The reply cable from Berlin was a polite demurrer, indicating that General Clay already knew his job and suggesting that Mr. Brown's proposal should first be discussed with Frederick L. Devereux who was still in Washington recruiting personnel for high military government positions. Shortly thereafter, Mr. Brown made his trip into Germany with General Clay's approval. This visit was especially significant because it was the only visit by a supposedly private businessman to eventuate in a semi-official "report" of such sweeping dimensions.

In the fall of 1947, Mr. Brown published his *Report on Germany,* which he introduced as follows: "Learning that I was coming to

Europe on a special trip, General Lucius D. Clay suggested that I spend as much time as possible in Germany to get first-hand information as a basis for a report on what should be done to get German industry on its feet and off the backs of the American taxpayers as soon as possible. . . . In view of the urgency of the problem, I could not, as a patriotic citizen, refuse to take the time from my scheduled trip for intensive study of the German problem."

The Brown report repeated conclusions that had already become familiar as the outcome of briefings at Berlin. But this time a new note was added: the recommendation that German industry, controlled by its former managers, should be built into a powerful bulwark against Russia. The report pointed up the assurance given to Mr. Brown by a number of leading German industrialists that in the event of war with Russia, the Germans would be on the side of the United States.

The Brown report was, technically speaking, unofficial. But the year 1947 marked a turning point. Officially the purposes of the German occupation were those set forth in the revised Joint Chiefs of Staff directive of July 15, 1947, approved by the President. Actually, the occupying powers, through a curious parallelogram of forces centered in Germany, were doing things for Hitler's New Order that Hitler himself had never been able to do. Both sides of the cold war were openly feeding German nationalism. Both were building up industrial potential, the Russians offering full employment to workers, Britain and the United States offering a free hand to industrial leaders. What was emerging was a European economy dominated from a central hub of German heavy industry, with an outer ring of satellite areas supplying food, raw materials, and light industrial products.

CHAPTER 19

The Nineteen

DESPITE the general downhill direction of reform programs in Germany two years after V-E Day, the program to curb the powers of the cartels and combines stayed for some time on a plateau. In July 1947, nothing seemed inevitable. The very possibility that the entire pattern of postwar errors from World War I might be repeated carried with it the possibility that public officials and the public would see the shadows of the coming events. Seeing them, they could act; and it was not too late to act.

In declining to end my period of service with General Clay on a note of recrimination, I had the hope, which was shared by nearly all the members of the Decartelization Branch, that a constructive demonstration through enforcement of the new law might put an end to captious criticism. When I returned to Berlin after the cabinet meeting of May 22, 1947, several newsmen asked what had happened in Washington. I described the background of the cabinet discussion, the probable future of the cartel program, and my own reasons for resigning. Lawrence Wilkinson, by that time director of the Economics Division, took violent exception to my statement that the cartel policy had been deliberately undercut. He demanded that I send all documents in the matter to General Clay, and even suggested that "disciplinary action" might be called for, not only because I had answered the correspondents' questions, but also because, while I was in the United States, I had participated in taking the question of cartel policy up with the cabinet.

In my memorandum to General Clay of July 14, 1947, I declined to pursue such an issue. I had resigned not as part of a feud, but to clear the decks. After months of turmoil, we had produced, and

General Clay had issued, a law. This law said, concretely, what the policy against excessive power concentrations was to mean in Germany under military government. Now, regardless of personal feelings on the winning or losing sides, the time for debate had ended. It was doubtful that any of the additional laws suggested in my memorandum of August 2, 1946, which General Clay had approved "in principle," would now be issued to supplement Law No. 56; but General Clay had appointed to head the branch a man whose previous official duties had not involved him in the sometimes heated debates inside the Economics Division, and there would be no pretext for opposition. We felt that since General Clay himself had carefully gone over the final drafts, and since Washington had approved it as a measure falling within the official policy, General Clay would feel himself compelled to allow the staff to get on with its work of enforcing this one law.

The staff of the Decartelization Branch was hard at work preparing findings of fact and recommendations in several specific cases. This was a course of action that we had agreed upon back in February 1947, just after General Clay approved the law. We had agreed that the main job for the immediate future was to enforce the law and let the results show whether or not the program was proportionate to the need. We had proposed to select several combines that were very large, with a monopoly or near-monopoly position in important industries. They must have an undisputed record of collaboration in the Nazi economic scheme, preferably with international ties that had made them weapons of economic warfare. These firms would be called upon to show cause why they should not be separated into several independent enterprises under new management, as required by the new law.

Four outstanding cases suggested themselves. Three of these, the Henschel locomotive and armaments firm, the VKF bearings combine, and the Robert Bosch automotive-equipment trust, had not only their head offices and principal places of business, but also the bulk of their plants and other assets, in the American zone. The fourth, the Haniel family's Good Hope steel and machinery combine, had the headquarters of its top holding company and the bulk of its machinery and diesel-engine factories in the American zone,

and its coal, steel and shipping subsidiaries in the British zone.

While procedures for co-operation with the British were being developed, the staff of the Decartelization Branch turned its attention first to the three representative combines in the American zone. Each of the cases illustrated a different type of problem, and together they presented a cross-section of the situations likely to turn up in other cases.

The firm of Henschel und Sohn of Kassel owned not only the largest locomotive-building shops in Europe, producing locomotives for the German state railways and for export, but, in addition, owned other factories producing trolley-busses, narrow-gauge engines, heavy trucks, road-making machinery and other heavy equipment, and had interests in a great many other lines of business. The Henschel family ties with the Nazi regime were close and the firm had distinguished itself early in the armament program by the development and production of the "Tiger" tank and the 88-millimeter gun. The firm had also undertaken a large aircraft-engine program for the German air force. The several plant groupings owned by the parent Henschel firm had operated independently of one another with practically no intermediate processing of common components to be shipped back and forth among different plant groups. Not only was the case for reorganization clear-cut, but it would be a simple matter to separate the different plant groups from the common control of the Henschel crowd without "interfering with production" in any legitimate sense of the word.

The other two American-zone test cases, VKF and Bosch, were complicated by international ties and contractual arrangements; but they, too, were simple from the standpoint of their productive activities in Germany, where each of their separate plant groups was operated independently of the others. If any pressure should be brought on the military government to go easy, for reasons not mentioned in Law No. 56, the issue of "interference with production" could be kept within manageable bounds. If the staff had chosen examples like Degussa or the Metallgesellschaft, questions of technology might have complicated the arguments.

The case of Robert Bosch, G.m.b.H. of Stuttgart involved some old puzzles. The American Bosch Corporation of Springfield, Massachusetts, had been seized by the Alien Property Custodian of World War II. Its predecessor firm had likewise been seized in World War I and between wars had found its way back into German control.

For years the German Bosch combine has controlled a majority of German production in the fields of automotive and aircraft electrical equipment and aircraft fuel injection. The firm controlled patents in these fields, both in Germany and abroad. Largely because of patent agreements between Bosch and companies in France, Britain and the United States, the use of fuel injection instead of carburetors on aircraft motors had remained a peculiar advantage of the German aircraft industry and had no counterpart in the other three countries.

The Bosch firm's key position in Germany rested rather on its control of patents and technology than on size of its manufacturing plants. The company's books showed assets valued in 1945 at a hundred and forty million dollars, all controlled by the Bosch family. The eight members of the management and supervisory boards held a total of thirty-eight positions on the boards of other companies. Through control of the only large central research laboratory in its field, the firm had a voice in the operation of other firms whether or not it owned any interest in them. In the same way its activities abroad had reached beyond the control of assets or stock in other companies.

The cloaking of the Bosch outpost in the United States was more smoothly arranged in World War II than it had been during World War I. After World War I, a group of three men, headed by one Martin E. Kern, representing themselves as American citizens, had bought the Bosch properties in the United States from the Alien Property Custodian. Mr. Kern, who became president of the new American Bosch Magneto Corporation, actually was an alien who represented himself as an American citizen of Swiss extraction. Four years after he became president of the company, he was convicted of making a false statement in an application for a passport when he made the same claim to American citizenship.

Curiously enough, after paying a heavy fine in the latter case, Mr. Kern was allowed to continue as president and director of

American Bosch. Though the Alien Property Custodian notified the Department of Justice of Kern's conviction, no action was taken to set aside the Bosch sale. A few years later, in October 1929, American Bosch and German Bosch made a "trade agreement" defining the respective territories of the two firms and the rights to the use of the Bosch name; and by 1930, German Bosch had again acquired a majority of the stock of the American Bosch interests.

After the near-disaster that almost lost Bosch the control of the American properties, the German company got busy to arrange a better cloak for the future. In 1934, the Robert Bosch firm "sold" the controlling stock of the American Bosch Corporation to the Mendelssohn Bank in Amsterdam, Holland, subject to the right of Bosch to reacquire the stock under certain conditions. The Mendelssohn Bank then established a Dutch holding company, known as NAKIB, to hold the shares of the Bosch properties in the United States, Britain, France and Italy. Two officials of Robert Bosch then joined the staff of the bank to direct the policies of NAKIB. In 1935, the bank engaged Mr. George Murnane, former vice president of the New York Trust Company, to become a director and chairman of the board of American Bosch Corporation. When the Mendelssohn Bank went bankrupt in 1939, the liquidators appointed by the Dutch government found that the American Bosch stock had been transferred to the New York Trust Company as security for a loan. The New York Trust Company proposed to sell the stock to satisfy the debt of the "owner," the Mendelssohn Bank.

At this point Dr. Erich Rassbach, director of Robert Bosch of Stuttgart, revealed that any transfer of control over the American company really required their consent, because all the operations of the American Bosch Corporation depended on patent licenses granted to them by the Stuttgart company. If these licenses should be withdrawn, American Bosch Corporation would be "an empty shell," and the stock worthless. Thus, without having legal ownership of the stock of American Bosch, German Bosch had the company under control just as effectively as if the stock were in the safe at Stuttgart.

On May 6, 1940, just before the German blitz swept into Holland, the American Bosch shares were "sold" with the permission of

Stuttgart to the Enskilda Bank of Stockholm. The bank put them under the control of a financial holding company named "A.B. Investor." The transfer agreement created an option to permit Robert Bosch of Germany to repurchase the stock two years after the end of the war. At that time Marcus Wallenberg, who, with his brother, Jacob, controls the Enskilda Bank, was also acting simultaneously as agent of the German Reichsbank in other matters.

In November 1940, a voting trust agreement was set up in the United States under which George Murnane was designated by the Wallenbergs' Enskilda Bank as the sole voting trustee with complete power to vote the American Bosch stock at stockholders' meetings in the United States. The voting trust arrangement provided that if George Murnane should die, his successor should be named by John Foster Dulles, senior partner of Sullivan & Cromwell, the law firm which represents the Wallenbergs and the Enskilda Bank in the United States.

While all this legal footwork was keeping the legal ownership of Bosch properties abroad in the technical custody of neutral citizens, Bosch of Stuttgart was not hampered in its control over the use of patented Bosch technology by non-German companies. Even as late as June 1941, American Bosch was the only source of supply of fuel injection equipment for naval diesel engines. The United States Navy wanted to develop a second source of supply, but found that American Bosch had no right to grant a license to any other company to make this patented equipment. The American Bosch company informed the navy that no such license could be granted without the consent of the Robert Bosch firm at Stuttgart.

Finally, on May 19, 1942, the controlling shares of American Bosch Corporation, nominally held by the Swedish firm, A.B. Investor, were taken over by the Alien Property Custodian. On December 29, 1942, an antitrust action against the American Bosch Corporation was concluded by a court order canceling all agreements between American Bosch Corporation and Robert Bosch of Stuttgart, arising out of their "unlawful combination and conspiracy to suppress, limit and control competition between themselves throughout the world." American Bosch Corporation was required to issue

licenses under all of the Bosch patents to American manufacturers *without royalties for the duration of the war.*

The third case, that of the VKF bearings combine, also involved cloaking operations and the Enskilda Bank. One of the mysteries of World War II has been the unexplained international relations of the Swedish industrial organization, A.B. Svenska Kullagerfabriken, known as SKF, Sweden's largest industrial concern and the world's largest manufacturer of ball and roller bearings. The principal Swedish interest in SKF is held by the Wallenbergs through their Enskilda Bank and its investment subsidiary, A.B. Investor. The actual extent of German or other foreign control, either directly or through the Wallenbergs, has not been disclosed.

For many years the active management of SKF was in the hands of Sven Wingquist, the founder of the firm. In 1941, he gave up the day-to-day management but remained as chairman of the board. From time to time, beginning in 1933 and 1934, Sven Wingquist came into the world spotlight as one of a colorful clique of international adventurers, who gained special notoriety by their buzzing around Edward VIII at the time of his abdication in 1936. They included Axel Wenner-Gren, the yachtsman; Charles Bedaux, inventor of a labor speed-up system; and Jacques Lemaigre-Dubreuil, French banker and vegetable-oil man of West Africa.

Axel Wenner-Gren will be remembered as a yachtsman with a remarkable record of coincidences. He cruised the seas throughout much of the war in his yacht, the *Southern Cross,* and turned up to rescue survivors of German submarine attacks, beginning with the German sinking of the British ship *Athenia* in 1939 and continuing through the Caribbean submarine campaign of 1942. At the time, some people speculated about how one yacht could happen along so often when a submarine spotted a vessel; but the coincidences were never explained.

Charles Bedaux, inventor of the "Bedaux System," a speed-up system for forcing higher labor output in factories, was an American citizen who spent most of his life abroad. The Duke and Duchess of Windsor were married in the Bedaux château on the Riviera. Bedaux was captured by American forces during the invasion of North Africa while busy building a pipeline to bring vegetable oil from Lemaigre-Dubreuil's West African domain to the Mediterranean to help relieve the critical German shortage of fats and oils. Bedaux committed suicide in the federal jail at Miami, while awaiting trial for treason.

Sven Wingquist and Axel Wenner-Gren had taken an active part after World War I in the German plans to mask the ownership of subsidiaries abroad. To get around the Versailles Treaty, firms like Carl Zeiss, manufacturers of military optical equipment, set up branches such as the "Nedinsco" firm at Venlo in the Netherlands and carried on as before. The Krupp firm did the same in Spain, Sweden, and other countries.

In 1934 the Swedish government discovered that Krupp controlled a block of shares in the Bofors steel and munitions works through a Swedish dummy holding company called "Boforsinteressenten." Sven Wingquist, who was chairman of the board of the Bofors steel and munitions works, was one of the two Swedish citizens who had been voting this stock for Krupp at stockholders' meetings. The Krupp concern controlled approximately one third of Swedish Bofors in this manner and had maintained enough additional voting strength through Axel Wenner-Gren to control the affairs of Bofors.

Sven Wingquist and the Wallenbergs have always claimed that SKF is Swedish-owned and Swedish-controlled. Up till 1928, no one had any reason to doubt this assertion. But in 1928 and 1929, SKF was involved in a series of moves whereby all but one of the important bearing firms in Germany, accounting for 60 per cent of Germany's bearing industry, were merged into a new concern, the Vereinigte Kugellagerfabriken A.G., known as VKF. When these moves were completed, SKF showed on the record as the owner of 99.7 per cent of the stock of German VKF. The mystery is how SKF could possibly have managed to pay the German owners of the merged firms without giving the Germans either money or some substantial stock interest in the Swedish firm, SKF. The management of Swedish SKF denied that any stock was given to German interests; but they never explained how the German interests were paid off.

In a similar deal in 1928 under which SKF had merged and acquired the principal French bearing companies, SKF issued 14,000,000 kroner, par value, of new SKF shares which they turned over to the French interests in exchange for the controlling shares in the new French concern. This increase of SKF's capital from 92,000,000 to 106,000,000 kroner, by the issue of 14,000,000 to the French, gave the French interests among them a 13 per cent participation in Swedish SKF. In 1929, SKF increased its outstanding shares by another 24,000,000 at the time it acquired ownership and control of the German bearing trust, VKF.

At the time of the completion of the German merger, on September 8, 1929, the *Frankfurter Zeitung* reported that the shares of VKF would not be listed on the German stock exchange and went on to say, "However, the shares of the Swedish parent company, of which a part is already German-owned, will shortly be listed on the Berlin exchange." In 1933, a pamphlet published by VKF explained the 1929 deal as part of a plan to assure the German firm an increased export market. The pamphlet reported: "Mainly for this reason, there developed a voluntary dependence on the international SKF concern. In spite of this dependence, it was largely German capital which was interested in the share capital of Vereinigte Kugellagerfabriken A.G., amounting to RM 30,000,000, because the former owners are holders of the SKF concern shares and still other shares are in German private ownership."

The case of VKF of Germany and its international ties through SKF of Sweden, posed a problem in the concentration of German economic power. It was like the case of German VGF and Dutch AKU in the synthetic textile field. While the question of German control as against "neutral" control has never been satisfactorily answered, the "neutral" firm is unquestionably the legal owner of important interests in the United States which were immune from seizure by the Alien Property Custodian during World War II. In the case of SKF, the subsidiaries in the United States are SKF Industries, Incorporated, of Philadelphia and SKF Steels Incorporated, of New York.

In 1940, Marcus Wallenberg came to the United States to buy up German securities in the American market, presumably for the Reichsbank, as part of the German Economic Ministry's "repatriation" program to buy out Germany's external debt at a few cents on the dollar. He arranged at that time to set up a voting trust which conveyed nominal control of SKF's subsidiaries in the United States to William L. Batt as voting trustee. Mr. Batt is president of SKF Industries, and, during the war, served as deputy chairman of the War Production Board. It was Mr. Batt who called at my office in Berlin in the autumn of 1946 soon after the press reported rumors that we were considering action to divorce German VKF from its international partners. He had come to Berlin to confer with General Draper on matters of German recovery; but he also wanted to be assured that nothing would be done to disturb the Swedish interest in the German company, or to reduce the value of the holdings by permitting removal of any of the plants from Germany as reparations.

It happened that two thirds of Germany's entire bearing industry was concentrated in a single group of four factories at Schweinfurt. Three of them, accounting for 36 per cent of Germany's productive capacity, were owned by VKF; and one, accounting for 30 per cent of German capacity, was owned by the only remaining large independent, Fischer A.G. When American air forces bombed Schweinfurt during the war, in an effort to knock out this strategic point in German industrial production, Schweinfurt was discovered to be one of the most heavily defended spots in Germany. German defenses inflicted a loss of fifty American heavy bombers in one raid alone. When these raids temporarily knocked out Schweinfurt, the effect was largely nullified by shipments of bearings from SKF in Sweden. A special United States mission was sent to Sweden to buy off SKF's production; but it was only partially successful in this attempt to cut SKF shipments. When the time came to give up German plants as reparations after World War II, a large part of the plant of the independent bearing firm, Fischer A.G. at Schweinfurt, was packed up and shipped off, leaving VKF with substantially a 100-per-cent monopoly of German bearing production.

The work of preparing specific recommendations for rearranging the affairs of these combines illustrated what Attorney General Biddle had told the Kilgore Committee in 1944. Reminding the

Senate committee that actual reorganization plans would have to be carefully drawn, he had said:

"Such plans would have to be developed to fit the particular companies to which they are to apply. Even with the kind of adequate information which can be obtained only during a period of occupation, it would take a long time to work them out and each one of them would raise a variety of policy problems. It is not simple. Yet this is the kind of program which it will be imperative to follow if we are to guard our own security."

While most of the professional members of the Decartelization Branch staff worked on different parts of the Henschel, Bosch, VKF and Good Hope cases, the new chief, Phillips Hawkins, worked out the procedures to be followed in seeing each case through. Members of the branch became a little concerned when a special board was set up to review the extensive findings of fact in the Henschel investigation. A group from the Industry Branch and other parts of the Economics Division was sent on a special trip to Kassel to go back over the entire ground already covered by the Decartelization Branch before the Henschel company could even be served with an order to "show cause" why it should not be reorganized. The rules already called for reviews and appeals, after a case had been argued and before the company could be ordered to dispose of any property. The idea of "reviewing" the simple proposal to start a case looked unnecessarily complicated.

Even so, by March 1, 1948, four "staff studies" had been completed in the test cases. The action recommended in each case was the issuance of a military government order requiring the company to answer the charge that, for reasons stated, it represented an excessive concentration of economic power.

At the same time, General Clay made the long overdue move to put the cartel-control work into a separate division. A general order effective March 1 created a Property Division directed by Phillips Hawkins. Richardson Bronson became chief of the Decartelization Branch in the new division. The Army newspaper, *Stars and Stripes,* indicated that the purpose of the order was to group together those organizations, such as property control, restitution, reparations and decartelization, which were slated for early liquidation. Most members of the branch assumed that this statement was a reporter's error, since the decartelization program had not yet started.

Mr. Bronson, as my deputy control officer for I.G. Farben, had shown little enthusiasm for the Farben reorganization, but in general had followed my specific instructions without protest. In his new role as chief of the branch, however, he commenced by announcing to the staff that he had been reluctant to accept the appointment. He had not previously been in sympathy with decartelization; but the way the work was shaping up had convinced him that it was after all a program to which he could subscribe. During the following week the staff waited for approval of the "staff studies," which would give the green light to begin proceedings.

Instead of a green light, they got fireworks. On March 11, 1948 Mr. Bronson called a meeting of all the members of the branch. He had on his desk a memorandum which he said General Clay had approved, but which he refused to show to anyone. The memorandum set forth a new policy that was startling. It proposed to exempt from reorganization all enterprises in the field of capital goods and heavy industries. Action in the future was to be confined to enterprises having a monopoly in consumer goods. No action was to be taken against VKF, the bearings trust. The case against Bosch was to be suspended if not dropped entirely.

Even the Henschel case was to be dropped, although the British in the meantime had concurred in finding the Henschel family holdings to be an "excessive concentration" within the meaning of the decartelization law. A report to the Secretary of the Army signed by Mr. Hawkins on September 23, 1947 had said: "The combine cannot be left intact for the reason that its position in the German industrial world was so powerful that it could dictate the terms under which it would do business, that it was beyond the reach of competitive influence; and that its size and influence rendered it impervious to the conditions of free enterprise."

The branch in the future, according to Mr. Bronson, was to look for monopolistic and unfair trade practices in the fields of consumer goods and merchandising. Such practices had been prohibited under Section 2 of Law No. 56, with no distinction made between

heavy and light industries. Mr. Bronson went on to say that no reorganization of large combines under Sections 3 and 4 of the law would be undertaken unless such combines were found in the consumer-goods field. In any future cases under Sections 3 and 4 a "rule of reason" would be the guide, in place of the "arbitrary standards" of Law No. 56. No reorganizations would be allowed to affect "vertical integrations" of industry from raw material to finished product, but only "horizontal integrations" of plants in the same field of production. Finally, those large enterprises against which no action was contemplated under this new policy must be given a "clean bill of health" so that they could stop worrying about the possibility of legal proceedings. Actually investigations up to that time had revealed only four firms in the consumer-goods fields with enough economic or political influence to deserve so much as passing mention: the Reemtsma cigarette monopoly, the German match monopoly, the South German sugar trust, and the Schultheiss brewing firm.

Mr. Bronson announced that approximately one fourth of the staff would be laid off. The reason given was that the organization and working assignments must be changed to meet the requirements of the new policy. Those remaining would stop work on the heavy-industry combines and direct their attention to spotting unfair trade practices. Four persons would work for a short time clearing up all pending matters in relation to heavy or capital goods industries.

Shocked by this series of statements in such open contradiction to General Clay's position during the previous two years, nineteen members of the Decartelization Branch, all but two of the professional staff then in Berlin, signed a memorandum to General Clay informing him of the statements Mr. Bronson had made. The memorandum was submitted for whatever clarification General Clay might consider necessary. A few days later, on March 17, the same nineteen prepared another memorandum describing a series of revisions and counterrevisions of Mr. Bronson's oral orders which followed his conversations with Messrs. Hawkins and Wilkinson, and the publication in the *New York Times* of a series of dispatches by Delbert Clark describing the new policy.

Both of the memoranda to General Clay pointed out that Mr. Bronson's orders amounted to a drastic amendment or nullification of Law No. 56, which the staff was supposed to enforce. Mr. Bronson's orders were without written confirmation of any sort. "The effect of such an 'amendment,' we believe, would be to leave the fundamental concentrations of economic power intact while engaging in little more than harassing attacks on the smaller companies. This, of course, aside from being in contravention of the Law would tend to make its enforcement unpopular and completely ineffectual. We also think there are very serious objections to giving immunity to 'vertical integrations' since the Law makes no such exceptions; we believe that to give a 'clean bill of health' to subjects of investigation is contrary to all established principles of law and law enforcement; and we think that being guided by a 'rule of reason' rather than standards in the Law offers many obvious dangers."

Some members of the Decartelization Branch hoped that once General Clay saw how the cartel policy was being misinterpreted, he might do what he had done so many times in the past: bring the matter up in his Saturday morning staff conference, make the official position clear, and dress down the men who had twisted the running orders. These hopes were dampened slightly by the knowledge that changes of viewpoint in Washington would sooner or later have their effect and that General Clay might find it convenient to scuttle the program. There was always the possibility, which none of General Clay's statements in support of decartelization had ever quite dismissed, that he had been interested only in maintaining appearances. So long as there had been danger of criticism in Congress or in the press if the cartels were allowed to revive, he had been building a record of public statements in favor of the anticartel policy, but he had done nothing to override the steady sabotage.

The professional staff did not know until several days after Mr. Bronson's bombshell that on Sunday, March 7, Messrs. Hawkins and Bronson had talked with General Clay in his office about changing the decartelization program. Mr. Hawkins had summarized the results of that conference in a memorandum which was then discussed by General Clay with Wilkinson, Hawkins and Bronson on March 9. It was this Hawkins memorandum of March 9 that Mr. Bronson had on his desk, but refused to show, when he talked to the staff on March 11.

At the conference of March 9, General Clay had read the memorandum, said that he generally approved of everything it contained, and agreed that it should serve, without being published as such, as the guide to the activities of the Decartelization Branch.

Mr. Bronson reported the matter in a private memorandum for his own files. General Clay had "realized that the dissemination of this memorandum prepared by Mr. Hawkins, to which he informally agreed, would be disturbing to those in the Decartelization organization who had had strong antitrust background and we could expect considerable remonstrance and bitter feeling, but that he expected me to keep such individuals in conformity with his policies and the policies of OMGUS, and that if they did not conform in spirit, to have them replaced by individuals who were in agreement with such a program; that if I found that I had released too many people and I needed capable personnel, that I could always go back to the United States and bring back such personnel as were capable of doing the job. . . . General Clay stated that he realized that when this Program was made public, there would be a scream to the high heavens from the strong antitrust group, but that there had been similar screams before as exemplified by the soundings-off of Martin back in the States, but that the screams had come and gone and that probably there would be not much more major interest. . . ."

The professional staff of the branch had no knowledge of these conferences. They dispatched their joint memoranda to General Clay and sat back waiting for the lightning to strike. Late in the afternoon of March 22 all nineteen were summoned to a meeting with General Clay in the big conference room around the hollow square table.

As the members were assembling in the conference room, Alexander Sacks, the only one left of the three of us who started on the venture in 1945, turned to Virginia Marino, another former member of the Economic Warfare Section, and remarked that Bronson must be serving his own interests because General Clay could not possibly have approved the new policy. She replied that Bronson would not dare to fabricate the story that his orders came from General Clay, and besides, he had shown no evidence of having a personal iron in the fire. Johnston Avery, who as the assistant chief in charge of enforcement had been bearing the brunt of the argument over enforcement changes, came in and sat down at a corner of the table on the side opposite General Clay's chair. His calm manner showed his belief that Clay would set matters right. Captain Laurent, who as a TVA lawyer had had a ringside seat for that organization's fight with the fertilizer trust, and whose staff had prepared the Henschel, Bosch, VKF and Good Hope cases, was confident that the four test cases were so thoroughly prepared that General Clay could not reject them all at once without announcing an obvious reversal of policy. The general feeling that Bronson had been offside seemed to have further support in the fact that Bronson had hurriedly departed for the United States a few days before, at the height of the controversy.

General Clay entered the room flanked by Lawrence Wilkinson and Phillips Hawkins. He opened the meeting with the statement that Bronson had no responsibility in the matter of recent policy statements. The decisions were those of General Clay himself. He had rejected the Henschel case because of the company's importance to the rehabilitation of Europe, and because the combine had only one customer, the German State Railway. This statement made it clear that General Clay had not read or had not understood the findings of fact in the Henschel case. The State Railway purchased locomotives from the standard-gauge railway locomotive shop, which was only one part of the vast holdings. General Clay went on to say that he had rejected the VKF case because VKF had already, at the insistence of the Decartelization Branch, transferred some idle equipment to the independent producer, Fischer A.G. This transfer of idle machinery, according to Clay, had "destroyed the monopoly." Further than that he would not go. It would not be possible to approve the severance of VKF from the ownership of "neutral" Swedish SKF.

General Clay said he had accepted part of the plan in the Bosch

case, to cut off the few small subsidiary enterprises unrelated to the company's main fields of activity; but he could not agree to disturb the Bosch control of the central research laboratories and the plants in its main fields, electrical equipment and fuel injection. In the steel industry, he said, the Good Hope case was premature until a decision should be made on the number and kind of competing companies to be created of the properties of the six big steel combines. In general, every case in the future would be examined by a "rule of reason." Since no two people would necessarily agree on the conclusions to be drawn from the facts in each individual case, the final decision would be made by General Clay himself.

As the Military Governor went on with his statement, the listeners exchanged looks of incredulity. Johnston Avery's face looked drawn. His jaw dropped. Throughout the first part of the meeting he did not speak, but sat taking notes. Some of those around the table, including Captain Laurent, began to ask questions. Others were Charles A. Dilley, former professor and student of antitrust legislation; Richard R. Rathbun, who later returned to the United States as a lawyer for the Antitrust Division; Irene Opton Ball, wife of the director of the Finance Division and a former financial analyst for the Board of Economic Warfare; John J. Barron, former FBI agent; and Samuel L. Kobre, attorney. Kathryn R. Beaty, former secretary to Wendell Berge in the Antitrust Division, and Charles Baldwin, editor of the four-volume report on cartels and combines, and others watched and listened. At first no one attempted to answer back or argue, beyond asking pointed questions. Finally Johnston Avery gathered up his notes and edged forward in his chair, preparing to speak.

General Clay had just replied to one question by saying that the steel industries in Germany must be big enough to "live" in competition with the steel industries of other countries. He went on to say that the German steel firms must operate at a profit, so as to bring the owners a "reasonable rate of return on investment."

At this juncture, Alex Sacks raised a point. The history of the Ruhr steel industry, which would long since have been bankrupt but for a large government subsidy, emphasized the absurdity of guaranteeing a "reasonable rate of return on investment" to the industry in a competitive market. What right did the owners of these combines have to this kind of consideration? Suddenly General Clay cut in. His face clouded up. His fist banged on the table. "I did not come here to be lectured on decartelization." He looked around the table. In a controlled voice he finished off: "I hope that no one feels he *has* to leave." He paused. "I hope that everyone will feel that he can remain and work under the policy as I have stated it. Good night, gentlemen!" He rose and left the room.

The results came rapidly. Johnston Avery and Frank Laurent tendered their resignations. These were accepted. The professional staff was cut. In all, ten positions were abolished in the first reduction of force under the "new policy." Other cuts came later. In the end this left a handful of Americans responsible for the trade practices of twenty million Germans in the United States zone.

Major General George P. Hays, the Deputy Military Governor, had views of his own on what should happen to people who oppose cartels. On the floor of the House of Representatives on March 25, 1948, Representative George G. Sadowski of Michigan referred in the course of a debate to the "nineteen courageous men and women" of the Decartelization Branch who had asked General Clay to clarify the cartel policy in Germany. Representative Sadowski had introduced into the record a copy of the memorandum of March 13, 1948. There was no indication that any one of the nineteen, let alone all of them, had provided the congressman with a copy of the memorandum. When General Hays received a copy of the *Congressional Record* he pinned a note on it and sent it to Phillips Hawkins. The note read: "Please have read by each of 19 'courageous' nonconformists. Mr. Sadowski may consider them courageous, but I consider them disloyal employees who should be treated accordingly."

The personnel office thereupon put a note in the personnel file of each of the signers, stating that no promotion, transfer, or other change of status was to be made without clearance from higher authority. Later, General Clay tried to apologize for his deputy's remark and General Hays offered to write a letter to any of the nineteen who requested it, saying he did not mean they were subversive. But the "disloyal" label continued to dog the tracks of all

nineteen, not only because denials never catch up with charges but also because government files never give up their papers.

What had been announced as a law to bring about decentralization of the Germany economy, and to end the power of the heavy industry trusts and combines, was almost overnight transformed by verbal order into a law for limited policing of business practices, with no fundamental change in the business structure to be policed. Not only was the main job left undone, but public servants were damned for having tried to do it.

CHAPTER 20

The Hand in the German Glove

AFTER two and a half years, I came back from Germany quite well aware that I had been wrestling with a buzz saw. We had not been stopped in Germany by German business. We had been stopped in Germany by American business.

The forces that stopped us had operated from the United States but had not operated in the open. We were not stopped by a law of Congress, by an executive order of the President, or even by a change of policy approved by the President or any member of his cabinet. In short, whatever it was that had stopped us was not "the government." But it clearly had command of channels through which the government normally operates.

The relative powerlessness of governments in the face of growing economic power is of course not new. Between the two world wars the outstanding development in world economics was the division of territories and markets, by private agreement, among the largest corporations of Britain, Germany and the United States, with minor participations by their counterparts in France, Italy and Japan. National governments stood on the sidelines while bigger operators arranged the world's affairs.

In the United States in 1933 President Roosevelt tried to establish a government powerful enough to talk back to the private operators. For a time the Roosevelt government asserted its right to control business activities wherever they might affect the public interest. But with the outbreak of war, men who had been on the outside during this New Deal era, cursing "that man" from their chairs in the Union League Club, had to be called to Washington.

The government of the United States found that it was in no position to fight a war unless it made a deal with the powers in control of the country's productive capacity.

With World War II "business" moved into "government." Men from high positions in investment banking and in the management of the top industrial holding companies came to Washington to guide the war production program. Later they moved up to high policy-making positions. Especially noteworthy was a group drawn from the Morgan companies and their pilot-fish, the bankers of the Harriman firm and the business-management specialists of Dillon, Read & Company. James V. Forrestal, former president of Dillon, Read, moved from Undersecretary of the Navy, a position largely concerned with co-ordination of industry programs to speed matériel procurement, to Secretary of Defense. Robert A. Lovett, former partner in Brown Brothers, Harriman & Company, moved from Assistant Secretary of War to Undersecretary of State. W. Averell Harriman himself started as a "liberal businessman" sent on a mission to Moscow in connection with Lend-Lease. He later became Ambassador to Russia, Ambassador to England, Secretary of Commerce, and finally roving ambassador for the Marshall Plan, all the while retaining a limited partnership in the Brown Brothers, Harriman firm.

Is it possibly a coincidence that Philip D. Reed, Lewis H. Brown, Frederick L. Devereux, and some of the others already mentioned in connection with the lapse of our German policy, have had in common their past experience with the financial and industrial concerns of the same investment banking groups?

In 1942 the Truman Committee investigated the performance of a number of dollar-a-year men, including Mr. Reed, and had this to say about their failure at that time to carry out certain government policies which affected the larger firms: "The committee believes that most dollar-a-year and 'without compensation' men are honest and conscientious, and that they would not intentionally favor big business. However, it is not their intentional acts that the committee fears, but their subconscious tendency, without which they would hardly be human, to judge all matters before them in the light of their past experiences and convictions."

These men, with all their "past experiences and convictions" found a ready-made kit of tools left over from the cartel era of the twenties and thirties. The failure of military government to do anything about removing the tools meant that the "subconscious tendency" of these like-minded men could find a ready expression in all the machinery of collaboration which was waiting to be revived between German and foreign business groups.

Some of the machinery of collaboration had been designed with considerable skill. In the twenties, for example, the elder Hugo Stinnes, founder of the Rhenish-Westphalian Coal Syndicate and head of the Stinnes coal, steel and shipping interests, set up two new corporations in the United States. These two corporations became the legal "owners" of all the Stinnes properties in Germany. Both Hugo Stinnes Industries, Incorporated, and the Hugo Stinnes Corporation, were incorporated under the laws of Maryland, with their head offices in New York. The elder Stinnes borrowed heavily in the United States in the 1920's by selling bonds to the public, and later defaulted on the loans. But since the assets of the two "American" Stinnes companies consisted almost entirely of the shares of stock they held in the German Stinnes corporation, there was little the creditors could do to realize on the bonds.

Before World War II, the shares of the German Stinnes held by the Stinnes companies in the United States represented a majority of the outstanding stock of the German companies. When the war came, the German companies, now headed by Hugo Stinnes, Jr., developed a hedge to take care of either a German defeat or a German victory. To prevent seizure of the properties by the German Custodian of Alien Property because of their "American" control, Stinnes called a meeting of the German stockholders, representing a minority of the outstanding shares, to approve an increase in the outstanding stock of the German company. The stockholders then sold all of these new shares to themselves. As a result, the blocks of shares owned by the American companies no longer represented a majority of the outstanding stock. This made the Stinnes companies German-controlled and not subject to seizure. In the event of a German victory, all was well. But if Germany lost the war, the holders of the American stock could go to court and have the action

of the German stockholders rescinded because a majority of the stock had not been represented at the meeting. The issuance of the new stock, which had reduced the proportionate holdings of the American companies, would be declared illegal. That is actually what happened. In 1948, a German court held that the Stinnes interests in Germany were "American property." Since that time the Stinnes companies have had the preferred status that goes with "foreign" ownership in postwar Germany.

The preferred status of "foreign" companies has provided an important part of the new design that is shaping the international economic balance. What was hit-or-miss in the "Christmas-tree" economy of the years after 1945 in Germany, from the standpoint of the German national economy, is not necessarily haphazard from the standpoint of power concentrations in international economic affairs. German firms with international ties have become small cogs in a larger machine. At the same time, new policies have been developed to promote the "integration and co-ordination" of the German internal economy into a more closely controlled mechanism.

On May 15, 1948, two months after disagreements over the cartel policy had come to a head, Leland E. Spencer, head of General Clay's Commerce and Industry Group, a part of the Anglo-American control organization for Bizonia, presented to General Clay a memorandum proposing a "revised German economic policy." Mr. Spencer proposed to establish a series of privately controlled German industry associations, each with its headquarters in the "natural center" of the industry. Membership by German companies in such associations would be "voluntary"; but the association would be given power to act as a central control and co-ordinating point for all companies in the industry, whether they were members of the association or not. The association would require all companies to submit production data and other information, and would allocate scarce materials among the different companies on the basis of their "relative position in the industry." Discrimination by an association against nonmembers, or between members, would be prevented by establishing an appeals board in the German Bizonal Economic Administration. The Economic Administration would also serve as a top control and co-ordinating point for the whole hierarchy of associations.

This grant of regulatory powers to the industry associations, according to Mr. Spencer, would "remove governmental interference in business," a change which he described as "a must!" General Clay approved this policy on May 21, 1948, thereby bringing to an end the earlier policy adopted in 1945 which had forbidden turning over regulatory powers, which were basically governmental powers, to privately organized industry groups. In 1945 the bad example of the Reichsgruppe Industrie and its system of industrial "self-government" had been enough to show the need of keeping governmental powers in the hands of a government. But the era that followed was one of quiet forgetfulness. General principles, based on previous experience of the way governments have broken down, gave way before the demands of "efficiency"; and German administrators or even private organizations were given the power to make their own rules as they went along.

The breakdown or abandonment of time-tested principles was an inside job. While General Clay himself assumed full responsibility in March 1948 for overruling reorganization plans in the case of the heavy-industry combines, his decision followed after several conferences within the Economics Division on policy questions. Early in 1948, as the test cases for reorganization under Section 3 of the decartelization law were being made ready, Harald Hamberg and two other gentlemen from Swedish SKF at Stockholm arrived in Berlin to discuss the future of the German VKF. Harald Hamberg was the former head of German VKF who, in 1941, succeeded Sven Wingquist as head of Swedish SKF. Hamberg and his two companions lived at the Wannsee Officers Club during their stay at Berlin and traveled freely to Schweinfurt to confer with their German managers.

When Robert A. Nitschke, chief of the Cartels Section of the Antitrust Division in Washington, arrived in Germany to confirm some documentary details of the government's antitrust case against the SKF combine, he was prevented for several days from making a trip to Schweinfurt to examine the records of VKF. By the time Mr. Nitschke reached Schweinfurt the gentlemen from Stockholm had

already had three or four days to review the records themselves. The reason for the delay in Mr. Nitschke's case was an argument by several members of the Economics Division that it would be unfair to permit a federal agency to have any freer access to the records of a German company than they would have to the records of a company in the United States. They pointed out that in the United States, if a company does not volunteer to make its records available, the issuance of a subpoena requires the action of a grand jury, based on a "reasonable suspicion" that a criminal law is being violated.

General Clay did overrule his Economics Division on this point of protocol; but the Economics Division's excessive caution may have accounted for the fact that the needed records were reported "lost in the bombing." In a previous case in 1946, involving documents from the Krupp files to be used in the government's successful prosecution of the case against General Electric and the tungsten carbide monopoly, we had readily secured photostatic copies of important documents. The British control officer in charge of the Krupp works had raised no objection to the invasion of the "privacy" of the Krupps.

The decision to drop the VKF case, which was confirmed by General Clay in March 1948, had been first proposed some six weeks earlier by Mr. Wilkinson following conferences in his office with the SKF men from Stockholm. No one from the Decartelization Branch was called into those conferences. The staff of the Decartelization Branch learned of the agreement reached by Wilkinson with the representatives of Swedish SKF when Richardson Bronson circulated copies of a memorandum he had written to Lawrence Wilkinson, outlining his understanding of Wilkinson's instructions for disposal of the VKF case. The substance of the memorandum was that VKF would be expected to sell two thousand surplus machines to the Fischer bearing works, but that since this action would allow Fischer to resume limited production and therefore would break the 100-per-cent monopoly position of VKF, no further proceedings would be undertaken against VKF. Also Swedish SKF would be informed that the military government had no intention of disturbing SKF's ownership and control of German VKF.

The Bosch case ran a slightly different course. While the Decartelization Branch was making its study of all the facts and preparing its recommendations, a retired American general, Arthur C. Wilson, arrived at Berlin in a private capacity as representative of a Swiss firm which had an exclusive agency agreement with Bosch. General Wilson had previously served in North Africa and Italy, and had commanded the Continental Advance Sector of the Sixth Army Group in the invasion of southern France. Despite his lack of any official status, and his position as representative of a firm interested in the Bosch case, General Wilson was given an office in the Economics building at Berlin, and the use of an official staff car. Members of the Decartelization Branch received instructions to consult General Wilson on all phases of the proposed reorganization orders in the Bosch case, and to clear all such items with General Wilson before attempting to take them any further up the line toward General Clay's desk.

It is not a crime under United States law for an army officer drawing retirement pay to represent a client before any agency or department of the government, unless he receives a fee for so doing. Section 113 of the Criminal Code does provide punishment for any officer in the employ of the United States — which has been held to include an officer on the retired list of the army drawing retirement pay — who "shall directly or indirectly receive or agree to receive any compensation whatever for any services rendered or to be rendered to any person, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter or thing in which the United States is a party or directly or indirectly interested, before any department, court martial, bureau, officer, or any civil, military or naval commission whatever."

Likewise, General Clay's deputy, General Hays, who conducted meetings on the Bosch matter at which General Wilson represented the position of Bosch, was not acting illegally unless General Wilson was receiving compensation from a client or from some other person. Section 332 of the Criminal Code applies only to one who "aids, abets, counsels, commands, induces or procures" the commission of an offense defined in a law of the United States.

However, General Clay did seem to entertain some doubts about the propriety of anyone's transacting private business while enjoying the privileges of a distinguished unofficial visitor. A few weeks after General Wilson's participation in the Bosch case was disclosed, General Clay, without naming names, published an order forbidding former military and civilian members of the occupation forces to enter Germany for private business purposes until two years after the termination of their service. He had been "shocked" to learn that one visitor had transacted private business while enjoying the status of a house guest of the Military Governor.

Despite any questions General Clay may have had about General Hays's handling of the Bosch matter, and General Wilson's participation on behalf of Bosch, the treatment of the case itself was not materially changed. After General Clay had disapproved all the test cases, including Bosch, in March 1948, there was some unfavorable comment in the United States, particularly in Congress. Later, General Clay directed that the Bosch case should be reexamined. But in the end the Bosch firm suffered reorganization only to the extent of having one plant group, out of the many it controlled, slated for transfer to new ownership. Bosch retained control of the technology and know-how, as well as the patents accumulated on the strength of its monopoly position, and the control of the research and development laboratories. In addition, with the help of General Wilson, the Bosch firm got military government permission in July 1948 to enter into an "exclusive agency agreement" with a Swiss trading firm, the Industrial Products Trading Corporation, of Zurich.

The Industrial Products Trading Corporation, formed for the purpose of buying industrial products from German companies and selling them in world markets, was owned jointly by General Wilson and two Greeks, the Ghertsos brothers. The latter had owned the Bosch agency in Greece for twenty years before the war. They made a loan of 33,000 Swiss francs to General Wilson to enable him to buy his one-third share in the new Swiss company. The so-called "Bosch-Swiss" agreement made the Swiss firm "sole and exclusive sales and service agents" in the following countries: Argentina, Brazil, Bulgaria, Czechoslovakia, Denmark, Greece, Hungary, Iceland, Iraq, Mexico, Panama, Portugal, Roumania, Sweden, Switzerland, Turkey and Yugoslavia. This agreement covered any and all Bosch products, including fuel-injection equipment, automotive and industrial electrical equipment, refrigerators, electric tools, and other products of the Bosch line.

Richardson Bronson and Phillips Hawkins approved this Bosch-Swiss agreement without obtaining the concurrence of Brigadier Oxborrow, the British decartelization chief, as required by the rules Mr. Hawkins himself had drafted. No one had fully investigated charges that the Industrial Products Trading Corporation of Zurich was, in fact, a Bosch dummy with the controlling interest held by the Ghertsos brothers for the beneficial interest of German Bosch.

Another curious feature of the Bosch-Swiss agreement was that Bosch agreed to sell its products to the Industrial Products Trading Corporation at a price payable in German marks far below the price schedules previously maintained by Bosch. This would enable the Swiss company to sell the products abroad at considerably higher prices and to accumulate the excess foreign exchange in dollars or other hard currencies outside the reach of the occupying powers.

The "new interpretation" of the anticartel policy was not confined to cases of companies involved with foreign ownership, like Bosch. On November 10, 1948, the military governments of the American and British zones published Law No. 75 covering "Reorganization of German Coal and Iron and Steel Industries." The new law recited its purposes as follows:

> It is the policy of Military Government to decentralize the German economy for the purpose of eliminating excessive concentration of economic power and preventing the development of a war potential. . . .
>
> Military Government has decided that it will not allow the restoration of a pattern of ownership in these industries which would constitute excessive concentration of economic power and will not permit the return to positions of ownership and control of those persons who have been found or may be found to have furthered the aggressive designs of the National Socialist Party. . . .

> *It is therefore ordered:* The enterprises enumerated in Schedule A of this Law are hereby declared to be excessive concentrations of economic power or otherwise deemed objectionable and therefore subject to reorganization within the purview of Military Government Law No. 56 Prohibition of Excessive Concentration of German Economic Power. The controlling companies in each of these enterprises shall be put into liquidation forthwith and a liquidator appointed, or current liquidation proceedings confirmed, as the case may be. . . .

The schedule of twenty-six top holding companies to be liquidated included twelve steel combines, the Rhenish-Westphalian Coal Syndicate, and thirteen other operating coal combines. The twelve steel combines were United Steel, Krupp, Mannesmann, Klöckner, Hoesch, Otto Wolff, Good Hope, Ilseder, the Göring complex, the Flick complex, the Thyssen group, and the Stinnes complex. Another schedule listed four public utilities or government-owned industrial combines whose assets were to be seized, including the Rhenish-Westphalian Electric Company, and the government-owned United Industrial Enterprises, Incorporated.

To carry out the changes in the ownership and management of the steel firms, Law No. 75 provided that: "A Steel Trustee Association consisting of German nationals shall be established for the purpose of assisting in decentralizing and reorganizing the iron and steel industry. The members of the Association shall be appointed by or under the authority of Military Government, after consultation with the appropriate German bodies."

General Clay turned over to the Germans themselves the job of picking twelve German trustees to make up the Steel Trustee Association. The assignment fell in the first instance to the German president of the executive council of the Bizonal Economic Administration, Dr. Hermann Puender. In January 1949 Dr. Puender asked trade-union leaders to help him pick the slate of German trustees. The trade-unionists soon left the conference, after refusing to accept the Puender slate, which included eight representatives from among the very combines that were to be "reorganized."

The eight combine men were: Dr. Werner Albert, former Nazi Party representative on the board of Mannesmann, and a *Wehrwirt-*

schaftsführer or "leader of the war economy"; Hermann J. Abs, director of the Deutsche Bank; Heinrich Dinkelbach, managing director of United Steel and successor to Ernst Poensgen in the International Steel Cartel; Günther Henle, grandson of Peter Klöckner, who succeeded Klöckner as chairman of the family steel combine in 1940; Günther Sohl, Nazi Party representative on the boards of United Steel, Krupp, and other big steel works; Karl Barich of the Rhenish-Westphalian Electric Company; Friedrich Wilhelm Engel, director of Hoesch; and Herbert Mondon, formerly of the Göring combine and deputy chairman of the Iron and Steel Association. Only four of Dr. Puender's twelve came from outside the top ranks of the big steel combines: Dr. Victor Agartz, former chief of the Bizonal Economic Administration; Dr. Heinrich Deist, German civil servant; Heinrich Meyer, former trade-union secretary; and Gerhard Schroeder, former Nazi government attorney.

This demonstration of how Dr. Puender's mind tended to run was not enough to get him fired as economic chief to Bizonia. General Clay merely announced that he thought not more than three of the twelve trustees should come from among the former owners of the combines, and said that he and General Sir Brian Robertson, the British Military Governor, would have the last word in approving the steel trustees.

Dr. Puender himself had had previous experience with shaping the thoughts of his German colleagues. During the war he served as a lieutenant-colonel in the *Truppen Abwehr* of the Army High Command, the counterpropaganda service. He was in Division III–H, the division concerned with preserving morale and correct Nazi ideology in the military forces. When this record of Dr. Puender's service was reported in the American press in Drew Pearson's "Washington Merry-Go-Round" column, former Chancellor Brüning immediately rose to the defense with the claim that Puender actually was a vigorous anti-Nazi who was one of several who "infiltrated" the *Abwehr* organization as part of the German "underground." Dr. Brüning pointed out that Puender was arrested in connection with the 1944 bomb plot against Hitler; though he did not go on to explain that over four thousand people were

executed for their direct or indirect connections with that plot. Perhaps Dr. Puender was so clever at infiltration that his complicity was never discovered. But an even more important question which Dr. Brüning did not answer was why an anti-Nazi and a former member of the German "resistance" picked such a slate of steel trustees.

As if to underline the probable future of the "international" control of the Ruhr, dispatches from Germany dated February 25, 1949, in addition to naming Dr. Puender's twelve proposed trustees, also named four representatives of the United States Steel Corporation and one of Inland Steel who were to be the American members of the international Ruhr trusteeship commission. Among them was Ian F. L. Elliott, the representative of United States Steel in Europe who in the years immediately before World War II had participated in the management of the International Steel Cartel.

The constantly accumulating evidence of defeat of the American reform policies for Germany reached a climax in the spring of 1949. Almost immediately after the November election of 1948, President Truman had directed Secretary of the Army Kenneth C. Royall to dispatch to Germany an investigating commission that had been appointed several months before, but had been waiting for orders to proceed. The commission was headed by Garland S. Ferguson, a member of the Federal Trade Commission. The other two members were Samuel S. Isseks, New York lawyer nominated by Attorney General Tom Clark, and Andrew T. Kearney, business management expert nominated by Paul G. Hoffman, head of the Economic Co-operation Administration. As legal counsel to the commission, Secretary Royall appointed Charles Fahy, former Solicitor General, who had also served for over a year as director of the Legal Division in Germany. To assist the commissioners, the Department of the Army appointed John C. Stedman, a section chief in the Antitrust Division; William H. England, former chief economist of the Federal Trade Commission; and Norman Mitchell, assistant to Mr. Kearney.

The Ferguson commission held hearings in Germany in December 1948 and in Washington in January and February, 1949. Their specific purpose was to investigate the effect of General Clay's order of March 9, 1948, rejecting the test cases under Law No. 56, reinterpreting the meaning of the anticartel policy, and requiring a substantial reduction in the size of the Decartelization Branch.

In a report of one hundred and thirty-six pages, dated April 15, 1949, the Ferguson commission found that the basic policy of eliminating the cartels and big combines was sound, and that "this policy should have been, and should now be, energetically enforced." The report commended the decartelization law, Law No. 56, as a reasonable and necessary regulation, and also found that the program as we had originally designed it was reasonable. The commissioners found no evidence to substantiate the charge that we had proposed to "break up" German industry into unworkable fragments. The four-volume resume of the cartel and combine problem was an "adequate starting point" for the activities of the branch once the law was passed.

Turning to the reasons for failure of the program after the enactment of Law No. 56, the commissioners criticized the unnecessarily complicated procedures worked out by Messrs. Wilkinson, Hawkins, and Bronson in the latter half of 1947. They also reported that these men "with direct responsibility for carrying out the work of the Decartelization Branch have not had the record of accomplishment in connection with decartelization, and particularly with deconcentration, that one would like to see in persons in such positions." The report cited evidence, too, that "some, including those who are responsible for the review of actions, have not always been in complete sympathy with the program."

The commissioners examined very carefully the claim that the elimination of "excessive concentration of economic power" would interfere with German recovery, and found no evidence to substantiate that claim.

The Department of the Army took no steps to carry out the recommendations of the Ferguson report. The actors gradually drifted out of the spotlight. General Draper, who had become Undersecretary of the Army in 1947, resigned and went back to his job as vice president of Dillon, Read & Company just before the report was filed. General Clay's retirement, originally set for July 1,

1949, was suddenly announced, to be effective May 15, in a release issued from the White House a few days after the Ferguson report was published. Lawrence Wilkinson and Phillips Hawkins stayed in Germany for a few months after John J. McCloy assumed office as civilian High Commissioner, then quietly resigned. Richardson Bronson stayed on a little longer, then returned home.

Only two men were hurt directly by the Ferguson investigation: both of them men who were summoned before the commissioners to give evidence. One, Charles H. Collison, who had run with the hounds during the disagreement between Bronson and the nineteen members of the professional staff at Berlin, later gave damaging testimony to the investigators on Bronson's mishandling of the program. Bronson retaliated by firing Collison; and although a review board found that his discharge had been unjustified, High Commissioner McCloy announced that Collison would have to go anyway because the Decartelization Branch was again being "reduced."

The other casualty was Alexander Sacks who, upon being asked to account for the failure of the program, had replied in part: "The men charged with the highest responsibility by the Commander-in-Chief have failed to carry out the explicit orders of the July 15, 1947 Directive to the Commanding General and Military Governor in Germany. The policies of the Roosevelt and Truman Administrations have been flagrantly disregarded by the very individuals who were charged with the highest responsibility for carrying them out. . . . It is no secret that the operations of the decartelization program have been hampered by Major General Draper and his associates in Military Government . . . They have done whatever they could, by innuendo and misstatement, to discredit a program which they either did not understand, or did not like."

For speaking these convictions, which the Ferguson report later substantiated, Sacks was fired at the insistence of Lawrence Wilkinson on the charge of "making statements attacking the integrity and good faith of the Undersecretary of the Army and of key United States Military Government officials charged with the implementation of the decartelization program in the United States zone of Germany." When Wendell Berge, former head of the Antitrust Division, took up the case, Sacks was reinstated pending the completion of the report of the Ferguson commission. Then, even though the findings of the commission verified Sacks's charges, General Clay in one of his last official acts, on May 14, 1949, the day before he left Germany, ordered the resumption of proceedings against Sacks. Eventually Alexander Sacks was "cleared" by a three-man hearing board at Berlin. He was reinstated in his position with another branch of the military government organization.

In December 1949, the office of the United States High Commissioner, John J. McCloy, hired a group of lawyers to form a new Decartelization Branch. The new recruits included several with previous experience in antitrust law enforcement. They were not noticeably better or worse qualified than the staff which bore the brunt of the fight from 1945 to 1948.

By December 1949, however, there was already talk of including Germans in western European military forces. A western German government was in the saddle, committed to a program of old-line "free enterprise." Hermann J. Abs visited the United States to arrange a settlement of the defaulted dollar bonds of the 1920's, to pave the way for new private loans to west German heavy industries. Baron Georg von Schnitzler, Emil Puhl and others were paroled from prison, just in time to join the parade.

A flourish of trust busting at that late date might have saved the surface. But could it have saved all?

CHAPTER 21

Microcosm and Macrocosm

OUR government could not muster the determination and constancy of purpose to match the dogged persistence of the fraternity brothers. The military government in Germany could not contend with a small clique of Germans because the interests of these aging representatives of Germany's New Order were integrated with the interests of powerful corporations in the United States. Yet these powerful corporations which were able to frustrate the intentions of our government derive their powers by consent of the government.

As governments are now set up, they unleash powers which they cannot control. The State of Delaware, by virtue of its power as a sovereign state, may charter E. I. du Pont de Nemours and Company, and so give it a legal existence. Or New Jersey may create a Standard Oil Company. Such organizations can, and often do, follow private goals that clash with the public interest, while the governments which harbor them look on ineffectually. We might as well ask a match to control the forest fire it has started as to ask Delaware to control Du Pont, or New Jersey to curb Standard Oil, or, for that matter, Luxembourg to abolish the International Steel Cartel.

In the spring of 1947 Johnston Avery and I did make a trip to Luxembourg to ask the government of the Grand Duchy to order the dissolution of the International Steel Cartel. We had previously refused to allow representatives of the Arbed steel combine to enter Germany and inspect their properties in our zone. Our reason was that Aloyse Meyer, the former collaborationist, was still managing Arbed, and was keeping the cartel offices and organization intact for future use. The Luxembourg government had protested to the State Department about our exclusion order. We went and discussed the deadlock with Prime Minister Pierre Dupong, Foreign Minister Joseph Bech, and the Economic Minister, Guill Konsbruck, who was also a director of Arbed and chamberlain to the Grand Duchess Charlotte. The answer of the Luxembourgers was, in effect, that they would not dissolve the cartel because they could not.

A little government like that of Luxembourg might not be expected to stand up to an international power complex. But what about a larger government? The government of the United States took no action throughout the war to halt American participation in the Bank for International Settlements at Basle, Switzerland, a private international bank founded by Dr. Hjalmar Schacht when he was president of the Reichsbank. This bank was set up after World War I in connection with the Dawes and Young plans, supposedly to help foreign-exchange transactions among the countries that were to receive reparations from Germany. After reparations payments were abandoned, the bank went on acting as a regulator of foreign exchange and funneled foreign investments into German enterprises. During World War II, its president was an American, Thomas H. McKittrick, though the Germans held the controlling interest as before. Around a common table, American, French, German, Italian, Swedish, Swiss and Dutch bankers transacted their business as in peacetime. In addition to Dr. Schacht, Emil Puhl, and others from the Reichsbank, Baron Kurt von Schröder, the Cologne banker, and Paul Reusch of the Good Hope combine were members of the German contingent.

The International Monetary Conference at Bretton Woods in July 1944 anticipated postwar problems of foreign exchange in Europe. The conference determined that financial matters of such key importance to the economy of all European nations must not be left under the control of a privately run international bank. The conference adopted a resolution specifically barring from the International Monetary Fund and the International Bank for Reconstruction and Development any nation which had not broken completely with the Bank for International Settlements. The United States was a party to the Bretton Woods agreement.

The American president of the bank, Mr. McKittrick, apparently shared none of the views of the International Monetary Conference about the Bank for International Settlements, nor the official determination of the United States to change the pattern of German economic domination in Europe. In May 1944, just before D Day, Mr. McKittrick was quoted as saying: "We keep the machine ticking because when the armistice comes, the formerly hostile powers will need an efficient instrument such as the B.I.S."

Mr. McKittrick remained as president for two more years after the Bretton Woods resolution, and his "efficient instrument" never stopped ticking. In the autumn of 1948 the "efficient instrument" quietly moved in to become an agency for clearing foreign-exchange transactions among the countries participating in the European Recovery Program. Mr. McKittrick himself, by then a vice president of the Chase National Bank, became for a time financial adviser to W. Averell Harriman, roving ambassador in Europe of the Economic Co-operation Administration.

Many questions about the operation of the Bank for International Settlements during the war have never been answered. Mr. McKittrick has not disclosed the arrangements which enabled the Nazis to ship to the Bank for International Settlements large quantities of gold looted from various countries in occupied Europe, worth hundreds of millions of dollars. No accounting has yet been made of it. Dr. Emil Puhl, the vice president of the Reichsbank, when picked up for questioning after we entered Germany, revealed that the last time he went to Switzerland in April 1945, a few days before the final collapse of Germany, he had succeeded in getting his friends to defer the publication of the bank's financial statement because he wanted to conceal the extent of the Nazi gold transactions.

What we do know definitely is that over four hundred million dollars in German assets, spirited out of Germany before the end of the war, never have been traced. These funds are now being used somewhere in the world by ex-Nazi Germans and their friends. They can finance propaganda and German nationalist "recovery" programs at will. We know that in Spain, Portugal, and Argentina there are large colonies of ex-Nazis showing no signs of money worries. The same is true in Sweden and Switzerland. No one knows whether any of the "spontaneous" sympathy in the United States for a resurgent Germany is the product of a well-paid public relations program. Emil Puhl, the man who converted the gold teeth and jewelry from SS concentration camps into a great part of this four-hundred-million-dollar fund, was paroled from prison in December 1949 by order of the High Commissioner's office.

If most people agree that some powers now being wielded by private bodies ought to be regulated in the public interest, we are still far from agreement on how to devise government agencies that can do the regulating. In September 1946 the United States proposed a charter for an International Trade Organization, which would work through the Economic and Social Council of the United Nations. The purpose of this International Trade Organization, or ITO, was to end the existing anarchy and provide an umpire for the world's trade. Specific functions would be to expand opportunities for trade and economic development; aid the industrialization of underdeveloped countries; and promote the expansion of production, the exchange and consumption of goods, the reduction of tariffs, and the elimination of monopoly practices and trade discriminations.

Negotiations on behalf of the United States during the various international conferences on the ITO were handled by William L. Clayton, Undersecretary of State for Economic Affairs, advised by a staff of businessmen including Philip D. Reed, chairman of the board of General Electric and president of the International Chamber of Commerce. It was Mr. Reed who, at Berlin, in December 1946, insisted that nothing needed to be done in Germany to curb cartels and monopolies, because the new ITO provision against restrictive practices in international trade would be enough. Actually, I found that the ITO provision was nothing more than an agreement to investigate alleged restrictive practices and to make "recommendations" to the governments concerned.

The ITO was also to bring about reductions of tariffs and other barriers to international trade. When schedules of tariff reductions were agreed upon after a long conference in 1947, I became interested

in this first concrete action intended to free the channels of international trade.

One item that stood out in the new tariff schedules was a reduction of the duty on imports of aluminum into the United States. I paid particular attention to this cut, because I knew nothing had yet been done to dissolve the international aluminum alliance. It would seem that the alliance, with its fixed quotas, could prevent a competitive flood of aluminum from overseas. What, then, would the tariff reduction accomplish?

The meaning of this tariff reduction becomes clearer in the light of the aluminum industry's development in the United States. Until Reynolds Metals and Henry J. Kaiser's Permanente Metals entered the field during the war, the Aluminum Company of America, or Alcoa, formed in 1888, and the Aluminum Company of Canada, or Alcan, formed by Alcoa in 1901, had been the only aluminum producers in the whole western hemisphere. Alcoa kept its position as the only producer of primary aluminum in the United States for over fifty years by avoiding foreign and domestic competition. Foreign competition was knocked out by the international alliance. The matter of eliminating domestic competition followed the usual pattern: use of patent litigation to squeeze out some competitors, absorbing other companies, buying up sources of raw materials and power, and other moves that are familiar in the growth of a large trust.

With the outbreak of World War II, Alcoa faced competition for the first time. Between 1941 and 1945, Reynolds and Kaiser broke into the field on the heels of a drastic aluminum shortage. The effect was spectacular. While other nonferrous metals such as electrolytic copper increased 71 per cent in price on the American market in the six years from 1940 to 1946, and while lead increased 142 per cent and zinc 62 per cent, the price of aluminum dropped 30 per cent.

A battle of the giants began. From the start, in 1941, Alcoa had the inside track with better sources and lower costs for electric power. Since power is the biggest cost in aluminum production, it was no small advantage that Alcoa's Canadian producer, Alcan, had a large hydroelectric site on the Saguenay River. By a series of government grants, both Canadian and American, Alcan at the end of the war had nearly paid for all its new power plants and could produce electricity at one half mill per kilowatt hour. This compared with rates of from three to three and one half mills charged by the TVA, two mills by Bonneville, and six mills in the metropolitan New York area.

In order to get a power supply at all, Reynolds had to set up most of its pot-lines in the Tennessee Valley where the rate was 3.14 mills. Even in the case of TVA power, Alcoa had the advantage. Alcoa in 1937 had made a long-term contract with TVA for power at 2.74 mills. In 1940, when TVA charged Reynolds the higher rate, the reason given was that the 1937 contract with Alcoa set an improvidently low rate; but, since two wrongs do not make a right, the TVA could not make the same mistake again.

When it came to government financing of plant expansion, the principle of business "soundness" entered. Reynolds got loans totalling $46,000,000 from the Reconstruction Finance Corporation at an interest rate of 4 per cent. The loans had to be secured by liens on all properties of Reynolds and its subsidiary corporations. Alcan, on the other hand, as a "sound," going concern in the aluminum business, got an advance of $50,000,000 from the RFC-controlled Metals Reserve Corporation without interest or security. *After the Truman Committee criticized this loan, Metals Reserve* did impose an interest rate of 3 per cent, but increased the principal to $68,500,000.

Again because it was an "established business," Alcan received a contract from Metals Reserve, under which Metals Reserve was obligated to buy a large quantity of aluminum at the full market prices, with additional guaranteed payments to offset increased costs due to war conditions. When the Truman Committee looked into this contract in March 1944, Metals Reserve had already paid Alcan $36,000,000 in these additional payments alone, and was committed to underwrite such extra payments up to a total of about $58,000,000, besides paying the full price for the aluminum delivered. Reynolds, a newcomer, got no firm orders from the government. It had to take its own chances on continuing needs for aluminum; and it had to absorb additional costs, on its own, without guarantees or escalators. The story of the Kaiser aluminum firm was similar.

In spite of the advantages enjoyed by Alcoa, its two competitors, Reynolds and Kaiser, made out well enough while the war was on. That brings us to the tariff reduction in 1947. Reynolds and Kaiser were by that time living dangerously on the fringe of the league. The relative standings in the industry are enough to indicate the strength of the contestants. In the United States, Alcoa had a capacity of 878,000,000 pounds; Reynolds, 474,000,000; Kaiser, 270,000,000. In Canada, Alcan sat across the line with a capacity of over one billion pounds, power costs of one half cent per pound, and a new tariff of only two cents per pound, as against average power costs in the United States for all other producers of three and one-half cents. As a result of the "removal of restrictions on trade" by the International Trade Organization, Alcan had a clear margin to cut prices below the costs of Alcoa's competitors, if necessary. To preserve Alcoa's position as leader, Alcan could wade in and "police" the industry by threatening a price war. The tariff reduction itself had no immediate effect on the price of aluminum in the United States. Alcan immediately increased its prices by exactly the same amount to offset the tariff reduction.

What happened in aluminum fits into a pattern that is already familiar. In our examination of the International Steel Cartel, we had noticed how the three biggest American steel corporations, United States Steel, Bethlehem, and Republic, improved their position in the international cartel as they became better able to assume responsibility for the "correct" behavior of their competitors. With this point in mind, I turned from aluminum to see what had happened in the steel industry since the war ended. The record showed some notable peculiarities in the behavior of certain government agencies which were supposed to aid production and prevent restrictive practices.

Before the war, the Big Three accounted for some 47,000,000 of the 80,000,000 tons of steel capacity in the United States, or about 58 per cent of the total. During the war, the government spent nearly $800,000,000 on new steel plants and about $300,000,000 more on additions to existing steel plants. Private companies invested a billion dollars in expansion of their own facilities. After all this expansion the Big Three of the steel industry, by 1948, still accounted for 58 per cent of the total ingot capacity in the United States, which was then about 95,500,000 tons.

This was before the Surplus Property Administration and the War Assets Administration disposed of the large new plants. The biggest of these was the Geneva Steel Company at Geneva, Utah, with a capacity of nearly 1,300,000 tons per year, built by the government at a cost of more than $200,000,000, and operated by United States Steel. Control of Geneva tripled United States Steel's capacity in the Far West. Early in 1947, the War Assets Administration allowed United States Steel to acquire the Geneva plant for $45,500,000, or 23 per cent of the original cost to the government.

By way of contrast, the wartime and postwar experiences of Henry J. Kaiser in establishing steel-making facilities in the Far West show a type of problem that may be faced by any outsider who happens to collide with business in government.

Early in 1941 steel shortages put a crimp in shipbuilding operations on the West Coast. Partly to get the necessary steel, and partly because the western cost of steel is much higher than the cost of similar products in the East, Kaiser wanted to build a plant and make his own heavy plates, structural shapes and merchant bars. Since he had no standing as an established producer in the steel industry, Kaiser could not get the government to erect the plant for him. Instead, the financial assistance had to come through loans from the Reconstruction Finance Corporation. In the end, a steel plant was erected at Fontana, California, at a cost of $111,800,000.

In building the plant, certain technical difficulties arose because of wartime conditions. In 1942, the War Department's Plant Site Board decided that the plant could not be located on tidewater, close to large industrial water supplies and cheap ocean shipping facilities. Instead, for security against "possible enemy attack," the Plant Site Board decided that it had to be located in an area back of the San Bernardino Mountains which was accessible only by rail. The region was arid. In order to operate there at all, engineers had to design elaborate facilities for reusing water. The War Production Board, on its part, refused authorization to erect a slabbing and blooming mill because of the wartime shortage of machinery and equipment. The engineers had to use the much more costly "bottom-

pour" method of producing small, slab-sized ingots. This meant that, from the standpoint of postwar production and marketing, the plant would always have a costly bottleneck in the ingot stage.

Because the Fontana plant was built for a special emergency purpose, it was a lopsided affair. It had far greater capacity for plates and heavy sections than was likely to be needed in peacetime when shipbuilding and heavy construction subsided. The plant lacked facilities for rolling lighter sections, strip, sheets and tin plate, and without them was likely to be a postwar white elephant.

After the war, Kaiser proposed to stay in the steel business and sell to West Coast customers at prices less than the prevailing West Coast "differential" of the Big Three. Under the "differential," or basing point, system of fixing delivered prices for steel, western prices had averaged about $12 per ton higher than in the east. The $12 corresponded to the cost of water transportation from Sparrows Point, Maryland, to the Pacific Coast. To cut costs, Kaiser tried to renegotiate the Reconstruction Finance Corporation loan to scale down at least part of the difference between the actual wartime construction cost of nearly $112,000,000 and the RFC's own estimate of the peacetime value in 1945, which was $58,000,000.

The RFC announced that it had no power to consider anything but straight banking practice. Under straight banking practice, Kaiser had hired the money. Any considerations such as keeping the plant in operation, or maintaining western industrial development and employment, were not within the province of the RFC.

In contrast with United States Steel's purchase of the Geneva facilities at 23 per cent of the original cost, the RFC held the Kaiser companies bound to repay $103,000,000, the full wartime cost minus estimated depreciation of $9,000,000. The RFC did make one concession in offering to lend an additional $11,500,000 to help with reconversion expenses. This added amount, however, must not be used to add the strip and tin-plate facilities needed for peacetime production.

This application of "banking practice" to the problem produced an interesting result. Under the RFC plan, the fixed charges for retirement of the Fontana debt would be at the rate of $10.16 per ton of ingots produced, even when operating at full capacity. If the plant operated at less than capacity, the fixed charges per ton would gradually rise. If the plant operated at only 60 per cent of capacity, the fixed charges per ton would be $16.93. These fixed charges per ton demanded by the RFC just happened to average out to equal the West Coast differential of $12 maintained under the basing-point system of the established steel enterprises. In comparison, the average fixed charges of the rest of the steel industry in the United States ranged from $.78 per ton when operating at capacity, up to $1.30 when operating at 60 per cent of capacity. The net effect of the RFC ruling, therefore, was to make it impossible for Fontana to sell steel competitively on the West Coast at a price less than the western differential already set by the Big Three.

With the growth of economic giants operating in a world-wide economy, government has become involved in activities that used to be regarded as "business." Whatever the forces may be that have pushed government into its new role, it seems that government has become transformed in the process so that it now behaves like a big corporation. The problem that must now be solved is that of protecting the whole interest of society. We cannot allow the lack of social responsibility characteristic of the international behavior of private corporations during the last quarter-century to become a pattern for government.

CHAPTER 22

Angels and Men

SINCE our government shows signs of behaving like a big corporation some people have suggested that the responsibility of the government to the citizens of the nation should be the same as that of a corporation's officers to the stockholders. At first glance the idea is persuasive, translating an abstract problem in government into everyday commercial terms. Some annual reports of the Tennessee Valley Authority, for example, have been phrased like a business corporation's annual report, addressing the citizens as if they were stockholders. To a great extent, however, this sort of make-believe merely obscures the problem, which is to get economic power under some kind of responsible control.

It may be true that we expect from the government a responsibility for the public interest at least as keen as that which the stockholders of a private corporation have a right to expect from the management. But experience has shown that corporate managements are under very little control from their stockholders and do pretty much as they see fit. The growing supremacy of "management" was noted in the United States during the early thirties by several official investigations into the behavior of corporations. It was found that the legal owners had lost effective control of most large corporations. Managements had become self-perpetuating and stockholders' meetings were largely rubber-stamp affairs. In the light of such findings, it would be a naïve stockholder who today expected to exercise control over the management. Governments have begun to behave in the same way.

Making a government powerful enough to keep things under control has always raised the specter of big government. The writers of the *Federalist Papers* in 1788 described the dilemma of a constitution-maker in the following way: "If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself."

We are in the same difficulty today. We have to enable the government to control economic power instead of becoming its tool. Since power is a public trust, the first job of a government is to see that power is used in the public interest and not against it. This is where a government must be different from a corporation, and where the comparison of citizens to stockholders breaks down. The German government was far more responsive to the management of the big corporations than to the citizens as such.

By chartering a private corporation, a government delegates to the corporate body some part of its own power to regulate commerce. Strictly speaking, this is an abdication by the government, giving up part of its authority to regulate matters affecting the public interest. Under corporation law the first job of a corporate management is not to promote the general welfare, but to promote the interest of the corporation. On a small scale, as in the past, this relinquishment of power has done no visible harm and the practice has been generally accepted. If the corporation does interstate business, however, this encroachment by the corporation on the government's power to regulate can be considerable. And if the corporation becomes a United States Steel, it can be overwhelming.

National governments in all parts of the world have granted power over segments of their national economies to various corporations. Over the years, these pieces have been combined in new forms on an international scale as the larger corporations, by agreement among themselves, have built a private "world government." This new order, stretching far beyond the boundaries of any one nation, has operated under no law except the private law of the agreements themselves.

It is time to view the results of this abdication by constitutional

governments in favor of private governments. The occupation of Germany has already provided a good laboratory in which we could study the activities of self-centered corporations and the activities of a German national government in which these corporate combines had a dominant influence. Our observations in postwar Germany did not support the theory that the Nazi regime was a runaway affair. Propaganda has been turned out in an effort to convince people that the industrialists who backed the Hitler coup did not realize they were opening a Pandora's box. We are to believe that the troubles they set loose plagued them no less than the rest of mankind. On the contrary, from all that we could gather in talking with German industrialists, the big-industry group in Germany regrets the Hitler period only because the Nazis lost the war. We found no evidence that the leading industrial groups had acquired a fundamental distaste for German nationalism as such. They are still working toward the organization of Europe in such a way as to support a dominant German industrial economy, and the organization of Germany's own economic life around a concentration of heavy industries.

Except for its military outcome, the Nazi experiment appears to have been a success in the eyes of its original sponsors. The unity of German business and finance in backing the Nazis was matched only by the precision with which the Nazi government moved in to support the aims and interests of the dominant financiers and industrialists. They, in turn, have been waging a hard postwar fight to keep the economic lines of the Nazi system intact.

The Nazi effort came as near to military success as it did because German military planners took advantage of the lessons of geopolitics. The relation of strategically placed land masses and national resources to the control over larger areas of the earth's surface had been studied with great care not only by Professor Haushofer and his "geopolitical institute" but by a great number of other German scientists, economists, and political analysts. In the same way, the German planners shaped the economic war, not only as a supplement to military operations, but as a substitute to hedge against military defeat. The German high command made use of what we might call ecopolitical organizations, combining both economic and political forces under common control. Though they had no ecopolitical institute labeled as such, the Germans arranged the strategic control of large areas of economic activity both at home and abroad by maintaining control of bottleneck points. It was this feature of the "cartel system" that General Clay and his economic advisers tended to ignore, placing their chief emphasis on so-called "war potential."

The German ecopolitical organizations — I.G. Farben, United Steel, the Deutsche Bank and Dresdner Bank and all the rest — did not die with the dismemberment of the German military machine. When our military government took over, the Germans had the stage set for really fatal blunders on our side. The occupiers failed to realize that the German ecopolitical forces still existed and that their complete overhaul was a first order of business. Instead, by delaying reorganizations and by taking the leaders of the combines into the management of the new economic revival, General Clay's military government entangled itself with the very forces it came in to crush.

Some of the reform steps originally proposed in 1945 could have had the immediate effect of removing obstacles that stand in the way of democratic developments in Germany. Suppose that we had been allowed to exclude the managers of the big combines from positions of power. Suppose we had been allowed to issue the laws we drafted to prohibit bearer shares, the device through which the big banks got control without having capital to invest. Suppose we had been allowed to issue our law limiting interlocking directorates and interlocking officeships. Suppose we had been allowed to repeal the laws requiring a license to engage in business.

A strict enforcement of these regulations during the early years of the occupation would have removed at least temporarily the power of Hitler's backers and others like them. They could not have dominated the scene during the formative years, as they have done. They would not have been able, as they have done, to suppress the efforts of other Germans to reconstitute their economic life on another basis. Furthermore, during the years of occupation, new vested interests, decentralized in character, could have been developed in all parts of Germany under the protection of the new laws.

It might be argued that once the occupation forces were withdrawn, a German legislature could repeal such laws and restore the *status quo*. That view overlooks an important argument in favor of the experiment. Even when occupation forces were withdrawn, it would have been possible to hope that the new interests established during the occupation might assert themselves and block any sweeping move by the old guard to repeal the laws and return to the old basis. Meanwhile, those of the old guard who had been ousted would have lost some of their power. They would have become "has-beens," a group of old men who could not effectually train a new generation to follow the old line because they would not have had the prospects to offer new recruits.

Back in September 1944, President Roosevelt had stated very clearly that the occupation forces were not going into Germany to feed the German people and promote their economic recovery. They were not going in just to see that war materials were not manufactured. They were going in to bring about a basic change in the economic and political system that had made the Nazi war possible. He made these remarks in expressing his total disapproval of a proposed "guide" which the War Department had drafted for the use of military government officials. We have already quoted some excerpts from President Roosevelt's letter to the Secretary of War on that occasion. Two years after the Roosevelt pronouncement, however, Secretary of State James F. Byrnes, in a speech delivered at Stuttgart on September 6, 1946, set out a policy for Germany in terms that could hardly be distinguished from those of the guide that President Roosevelt had so vigorously opposed.

General Clay, in his own memoirs, acknowledges this fundamental shift in policy which, without ever being announced as a basic change from the Roosevelt policies, colored the entire picture of the military administration in Germany. He describes the disgruntlement of the Economics Division over the presidential veto of their proposals for rebuilding Germany along the old lines. Here is how it looked to General Clay:

> When I arrived in Paris I had heard only vaguely of the U. S. Group Control Council which was now under my command, and knew little of its functions. I did know that, while the actual supervision of military government was a staff function of Supreme Headquarters, there was an American group planning our participation in military government after the defeat of Germany and the dissolution of combined command. I had heard that this group had prepared a manual for military government that aroused indignation in Washington because allegedly it proposed a liberal treatment of Germany, which was displeasing to those who were preparing a much more drastic policy directive. Our government ordered the suppression of this manual with consequent devastating effect on the morale of the U. S. Group Control Council, although *reading it now will show that it deviated little from the American policy which was to develop for Germany and to be proclaimed first by Secretary of State Byrnes in his Stuttgart speech.* [Italics added.]

Military government could have carried out the directives approved by two presidents and set out in black and white in official documents. Instead, it chose the limited objectives of quick economic recovery and winning the support of German industrialists, at the expense of not carrying out the reforms which were the only immediate justification for the occupation in the first place. How can we require government officials to stick to public policy instead of giving way before a solidly organized effort from commercial interests to prevent such policies from being carried out? Will American public policy recognize its public aims? Or will it go back to serving the interests of a limited group under the aegis of temporary expedients like saving the taxpayers' money or protecting American private interests abroad?

Though there is still time to try again in the German laboratory, it does not mean that a change of men would necessarily be enough to produce a change in result. We have seen how the international fraternity works. Long before German industry becomes a military menace as such, it will become an instrument in the hands of British or American financial groups engaged in the dubious enterprise of rebuilding their former balance of power in Europe. We have seen the almost limitless ways in which it is possible for them to maintain

control over the course of events in spite of paper declarations. It is not enough to have policy statements on paper. There has to be an effectively organized and popularly supported political pressure to insist that public policy shall be carried out. This popular political organization has to be forceful enough to withstand propaganda campaigns and political maneuvers backed by unlimited cash.

The ecopolitical masters of Germany boosted Hitler and his program into the driver's seat at a time when the tide in the political fight between the Nazis and the supporters of the Weimar Republic was swinging against the Nazis. All of the men who mattered in banking and industrial circles could quickly agree on one program and throw their financial weight behind it. Their support won the election for the Nazis.

We must assume that the same thing is not yet true in the United States. We do have economic power so concentrated that it would lie in the power of a group of not more than a hundred men — if they could agree among themselves — to throw the same kind of combined economic weight behind a single program. They have not agreed yet. There are still enough divisions within the Republican Party and enough minor differences between Republicans and Democrats to indicate that on some fundamental economic questions there are different points of view, each one championed by a different faction inside the financial and industrial community itself.

If the United States should run into serious economic difficulties, however, most of the conditions for a re-enactment of the German drama would already exist on the American stage. The slight differences within the camp of the fraternity then may be the only real barrier to the kind of integration of the financial and industrial community behind a single repressive program, like that which the financiers and industrialists of Germany executed through Hitler.

Are we safe in assuming that it would take a grave economic crisis to precipitate the dangers inherent in economic concentration? The basic integration of the financial and industrial groups in the United States is evident when we look at the increase of concentration in the past few years. Before the outbreak of World War II, the 250 largest American industrial corporations controlled two thirds of the industrial assets in the United States, and the bulk of this collection was in the hands of the 100 largest. The leading firms were arranged into eight major groups by common financial ties and interlocking directorates. During the war, the government spent $175,000,000,000 on prime war contracts. Of this amount, ten corporations got the top 30 per cent, and one hundred corporations, including those ten, got the top 75 per cent. The government spent $26,000,000,000 on new manufacturing plants. Half of the total in new plants went to twenty-five corporations and three fourths went to one hundred corporations.

The next step was inevitable. In the postwar demobilization and the sale of "war assets," three fourths of all the war plants were distributed among the 250 largest firms, and the remaining one fourth went to some of the 262,000 small firms which, before the war, had accounted for about one third of the total industrial facilities. In the five years of the war, the 60 largest corporations more than doubled their total assets. When the shooting was over the 100 largest corporations, held by the same eight financial groups, instead of controlling two thirds controlled three fourths of the American industrial economy.

Just as the six largest financial corporations in Germany interlocked with the dominant industrial firms, so there are eight large financial units in the American economy which in recent years have assumed a comparable degree of power over here. These are: (1) the Morgan group controlling, among many others, such headliners as United States Steel, General Electric, Kennecott Copper, American Telephone and Telegraph, International Telephone and Telegraph; (2) the Rockefeller interests, including the Standard Oil companies and the Chase National Bank; (3) the Kuhn, Loeb public utilities network; (4) the Mellon holdings, including the Aluminum Company, Gulf Oil, Koppers, Westinghouse Electric; (5) the Chicago group, including International Harvester and the Armour and Wilson packing houses; (6) the Du Pont interests, including General Motors, E.I. du Pont de Nemours, and United States Rubber; (7) the Cleveland group, with Republic Steel, Goodyear and others; and (8) the Boston group, including United Fruit, Stone and Webster utilities and First National Bank of Boston.

Firms in the portfolios of these eight groups make up the Big

Threes and the Big Fours of practically every basic industry in the United States. Through their co-operative control of the largest insurance companies and the agreements under which they manage all large security issues, these combinations of companies are in a position to determine the flow of a large part of the "investment" in the United States.

We have been slow to recognize the inherent dangers in corporate empires because we have had a theory that business does not need to be governed. The cartel era of the twenties popularized the slogan of "keeping the government out of business." The war and postwar era of the forties went the other way, introducing the notion that the government's job is to "create a favorable climate for private investment." In World War II, for example, the United States government spent over a billion dollars in conciliating the rulers of Saudi Arabia and Iran, thereby creating a "climate" in which the Arabian-American Oil Company and a few others after the war have made millions in oil concessions on a very modest cash investment. The new era has been one of "co-operation," amounting almost to identification, between business and government.

The economic system of the United States is supposed to have been developed according to the principles of private investment. In place of a government planning board determining the number of shoes, automobiles and radios to be made each year, it is supposed that private investors, making their separate guesses at the types of production likely to be most profitable, have determined the size and character of the different parts of the system. It is a favorite theme with editorial writers that the United States has secured the most productive industrial scheme in the world under these principles of independent private investment.

Even if the principles of investment can be relied upon, as the theory goes, to direct the flow of new capital into areas and activities where development will be most profitable, it does not necessarily follow that these same principles will direct new investments into fields where development is most necessary from the standpoint of public interest. In the case of war, for example, where the objective is not to make the most money, the habitual practices of investment experts get in the way. War production, with its demand for high output, imposes a strain on business organizations designed to operate at lower output and high prices.

The great productive effort of World War II followed a long period of negotiations between government and the management of industries to break production bottlenecks and allow materials to start rolling. These blocks included resistance to conversion of plants for war production from their usual peacetime production of such items as automobiles, refrigerators and radios. There was resistance to expansion of basic industries, symbolized by the stacks of aluminum pots in every courthouse square, by the steel shortage, and by the delays in the synthetic rubber program. There was resistance to the licensing of patented processes to "outsiders" and there were other patent restrictions, as in Plexiglas for bomber noses, quinine substitutes for malaria prevention, and many others. There was resistance to subcontracting of prime war-production contracts so that the large, medium-sized, and small independent firms could unleash their unused productive energies.

Though the economic system of the United States is supposed to have developed according to the principles of private investment, it is not true that the over-all "plan" or pattern of the nation's economic growth has been purely the product of unco-ordinated, individual decisions. The necessities of war and other major actions of government have given direction and impetus from time to time, but the greatest economic forces have been under steady control for a long time through the system of concentrated "free enterprise," with its interlocking directorates, holding companies, combines, intercompany agreements and manufacturers' associations, and through the private planning of international bodies like the International Steel Cartel.

There is, probably, no magic formula to determine exactly how far our government would have to go in devising new laws to enable it to assume control over the nation's economic course. However, the example of Germany does indicate some of the guidelines which ought to be watched carefully. At the base of the German problem was the unbalanced economic system tightly controlled by a clique of financial and industrial operators. What we have seen of the pattern followed in Germany indicates three principal ways in

which the behavior of the banks and the industrial combines threw the national economy out of balance. First, the economic system was overburdened with heavy or producer-goods industries and deprived of light or consumer-goods industries; second, industrial production was overemphasized and agriculture was neglected; third, the product of the German factories was overpriced in relation to the national income, so that the population as a whole could not buy all the goods that the nation's factories produced.

These balances between heavy and light industries, between industry and agriculture, and between production and consumption, were destroyed partly by the failure of the Weimar government to act, and partly by the positive acts of the financial and industrial clique. In building an economy dominated by heavy industry with high rates of income for the combines, with shortages of food and consumer goods for everyone else, they upset the balance not only of the German economy, but of the whole European economy as well. Germany ran a downward and inexorable course toward economic dislocation, violent political measures to fend off the consequences, and finally war.

Our job now is to prepare for a future crisis before it happens. This means we must have a double objective in Germany. The occupation of Germany must be put back on the track. But more than that, we have to reassert public goals in the United States which will prevent the already apparent concentration of economic power in our own country from reaching the end it did in Germany. We cannot hope to end the concentration of economic power in Germany until we are able to deal with the concentration of economic power in the United States.

This brings the German problem home with an urgency that has been missing in the postwar discussions about Germany. The need to treat Germany as an American problem was not felt in this country after World War I. Despite warnings from men whose experience with the German occupation had convinced them that we were entering a period of armed truce, and not peace, business arrangements went ahead unchecked to rebuild a Germany that could not be expected to be anything but a steam-roller. Now, with all that experience and warning behind us, and in spite of strong popular support for the reform of Germany, we have had to watch the same errors being repeated as if nothing else were possible.

The moral of this is not that Germany is an inevitable menace, but that there are forces in our own country which can make Germany a menace. And, more importantly, they could create a menace of their own here at home, not through a deliberate plot to bring about a political catastrophe but as a calm judgment of "business necessity." The men who would do this are not Nazis, but businessmen; not criminals, but honorable men.

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