

Cartels, Concerns And Trusts

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Introduction.

This volume makes available to English readers the best-known and most frequently quoted study of industrial combination from the German point of view. There is an abundance of literature on the trusts, from economists who have lived close to that evolution, and the trusts, by their more challenging position, were for two decades the centre of the discussion which turned on what in industry was safe for democracy. Meanwhile, in Germany, the alternative of the cartel was having a less-noticed and controversial development, until in Westphalia there was created, out of lower forms, a working model which was new and unique in the manner in which it related producers to each other and to the market. In only a few industries has this model been fully established; but it presents a rival type to the trusts, and places the problem of combination on a different basis of analysis and tendency. The distinction between these two forms may be a matter of industries, or of national law and psychology; or they may work together, the cartel being the general envelope within which fusions are created. The types are nevertheless distinct, so much so that 'rationalization,' as a general term, rather denotes than defines them both. In America, the cartel is illegal, so that industry has sought its administrative solution in fusions; in England trusts and cartels coexist; in Germany, they are interlaced, great trusts having their feet in one cartel, their shoulders in another, and their heads in a third.

The two other forms of capitalistic structure, the vertical amalgamation and the concern, do not present the same problem as the trusts and cartels. There is nothing necessarily monopolistic in their form or operation. Like the trusts and cartels, they represent the desire of management to 'run full'; they may also make for economies of continuous or related operation, and for a distribution of risks. They belong to the

study of big business, but in themselves, unless combined with trusts or cartels, they are nothing which a democratic community needs to watch or control. Amalgamations become problematic to the community by their *horizontal* reach over the outlets of particular products; problematic, that is, because monopoly and higher organization look much the same, and the community has to find ways of ensuring that the latter is not becoming the cloak of the former. The inner safeguards lie in the impatience of the best management with restrictions on its efficiency; it can break away, or insist on a real policy of higher administration and economy. The outer, or legal, safeguards have now a long history in America, and a short one in Germany, while in England no special policy has yet been devised.

But for England especially, new importance now attaches to the trusts and cartels, for two reasons. First, the adoption of a tariff policy removes the safeguard which has led her hitherto to leave special legislation alone, and to administer only the vaguer provisions of the common law. Second, the extension of cartels and trusts into the international field has placed in the hands of these organizations the power, if not to cancel, at any rate greatly to modify the protection given to the consumer by international commerce. It is a fact of the first importance, if by such extensions, especially through international industrial agreements, public tariff policy can be substituted by arrangements to reserve home markets, in whole or part, for home producers. There is not yet much information as to how exactly these reservations are operated, and how strict they can be made. But we are undoubtedly approaching a new phase of market control, in which international operations depend on the strength of national organizations, so that we have to be more sure than ever that the latter are real economic administrations, and that we obtain their advantages with the least offset of monopolist policy.

In successive editions of this book, and in other allied studies of capitalist structures. Dr. Liefmann has kept before his readers for a generation the changing phases of the whole problem. His sympathy is with the cartel type, in which he sees the most advantageous relation between individual enterprise and common market policy. Of that type, in respect of its evolution, and of its past and future significance, he is the most authoritative expositor. An Introduction cannot do more than pick out some of the key ideas which may be kept in mind in following his presentation. This

is the function I have tried briefly to discharge. The ideas presented in what follows are — the reality of the problem of monopoly; the tendency to a higher organization of industry; the growing importance of trade practice, or competitive manoeuvre; and the incidence of business risk. These are the precipitates which are held in solution in the mixture that is called the ‘trust problem,’ now re-named as rationalization.

Monopoly.

By his definition of the cartels as ‘free associations of producers for the monopolistic control of the market,’ Dr. Liefmann challenges the implications of the term monopoly. We are never dealing with complete and infeasible monopoly; the analysis of that, however interesting as an exercise, is not applicable. The degree of monopoly which is called monopolistic control may arise, in his view, where about three-quarters of the supply is controlled by one authority. And that degree is itself qualified, since new competition is always latent, so that both competition and combination are unstable, and monopolistic influence rarely feels itself established. It is obvious that, if there is a desire to control, the completer the range of application the better; this indeed is conceded in recent British legislation concerning coal-mining and agricultural produce. On the other hand, we cannot simply disarm ourselves of the objection to monopolistic tendency. This objection rests on very old and deep instincts, and many guarantees are required before it can be waived.

We are continually discussing one policy or another by reference to some effect which it may have on costs and prices. Advances in wages; local rates; the level of income tax; the policy of free trade; all of these are closely considered as problems which finally issue in the effects they have on the fighting front of industry, the buying power of consumers. These questions are thrown into prominence from time to time, when the attention of the country is engaged by a great wage dispute or the financing of the Budget. But there may be proceeding, in ways which do not attract public attention, by measures which are secret and private, far greater influences on prices than those which are thrust upon our notice. As the public does not know what a fair price for anything is, important changes in price may simply happen and have to be accepted, especially since the parties primarily affected by these changes are often other producers who simply hand them on to the next consumers in order. It is

irrational to have much discussion of some possible changes in price, if other causes of change, perhaps more effective, are allowed to work out without attention. A country may of course be content with maintaining a general condition like free trade, on the assumption that on this condition nothing very serious can happen. But there is always a freight margin, and in the most efficient industries an efficiency margin, within which prices can move even under free trade. And it is also possible for producers to make international agreements, as they do in increasing numbers, whereby free-trade policy is over-reached by clauses reserving the home market to the home producers. This requires no public sanction, and if, at the time, the public attention is occupied with other things, then *events happen* whose influence on welfare may be greater than that raised by other industrial events to which the public does attend, such as a strike, or the question whether some tax has reached its 'limit.' This is the general problem of monopoly under private capitalism. It is the more difficult because the public welfare depends as a rule not only on keeping prices from rising, but on enabling them to fall.

In considering the combination movement in its general bearings, Dr. Liefmann makes the reply to this attitude that the producers' interest is the increasing one in modern society. The pure consumers, he holds, are relatively fewer, and we must not think too much of the *rentiers*. The producers' interest takes care of itself, because trade unions are able to exert pressure, and to share in the gains of the combines. The really important circulation is thus maintained. I think that a distinction must be made here between combination in certain industries, and a general combination movement, such as the cartels represent. In the former case, the producers as a whole, including the employees, will doubtless share any special profit; but the generalization of this brings us into the field of reactions, if by a general policy of restriction the whole real product is diminished for every one. Also, I am not quite sure that the passive shareholder ought, for this purpose, to be very strongly distinguished from the *rentier*.

Dr. Liefmann's analysis of the main directions of cartel influence gives a further outline of the defences against monopoly. He introduces us to a positive study of a system of interactions of combined producers on each other, whether at the same stage or at different stages, on the merchants, on the consumer, and on the general

economic development. The most fundamental of the checks on combines are, first, the latency of new competition, making combination unstable, just as competition is, when it goes to excess; and he even concludes that over the long period cartel prices may not differ greatly from fair competitive prices; second, the defence of vertical against lateral combination, an interaction the full effects of which on combines create a very difficult problem, but which at any rate enables the prices of final products to be released from monopolistic influence in the primary stages of production. The whole of the system of interactions depicted in these chapters is the alternative to the system of pure competitive interactions on which reliance was formerly placed. The reader must judge of the relation of this system of interactions to what I have called the inherent problem of monopoly, that is, the silent occurrence of events in the world of modern capitalism which may have wider influence on welfare than those events which, in England at least, emerge into greater prominence, though their influence on material welfare may be less.

The modern State, to put this otherwise, is now increasingly concerned with questions on which its expertness is not so obvious. Wars, the structure of government, and the distribution of the burden of public finance, have had their day in the limelight of attention, and the State has now to attend more to proceedings whose criteria are by comparison technical; the justice of a war, a franchise, a tax, a relation of political persons, are questions in which the issues are more appropriate to a political body than the justice of a price. Dr. Liefmann holds that the conception of a just price is too vague to be handled. Even the justice, or expediency, of an economic method such as combination is one on which a public opinion is exceedingly difficult, since the necessity of some combination is granted, and the extent to which combination makes for efficiency is a matter on which industrialists are the first experts.

The course of the latent problem of monopoly involves the following factors. First, the *capacity* of industrial control is one to which it is difficult to set limits; the extent to which it does develop seems to be the only answer. If the unit of *process*, the industrial establishment, appears to have an efficiency limit, we are then carried on to the unit of *enterprise*, in which a number of establishments are united, and then to the unit of financial control, of which the concerns were an example, the limit of

which recedes further. Management is a system of devices, liable to improvement by the type of invention which has no name except organization, or 'new combinations' of factors. The claim of the greatest organizing ability to deal with high policy over a wide range can be observed by a study of the English directory of directors. One prominent industrial leader holds thirty-two directorships, thirteen of which are chairman's positions, and three are managing directorships; some of the enterprises involved are among the largest of their kind. There are many cases where over a dozen of such positions are held by the same person. Human capacity aims at running full, like any other capacity. But a public department, with much more routine, is one man's job.

Second, this creates *authority*. The authority of leaders of industry has risen in the last generation to a position much more comparable than it was before with that of political, military, or ecclesiastical leaders. In agriculture, with its traditional attachment to the individual business, and its small degree of combination, the same prestige has not been created. It is the large scale, the large function, and the large influence over national welfare that have created for industry the new status. The authority so created is its own sanction; and it is a social problem for that reason. Public criticism is not easily applied to what can defend itself as a necessary evolution, the explanation of which is technical, even if the result appears as the personal control of a few over the life and welfare of the community. The British committee on selling agencies in the coal trade, impressed by the coal cartel as an organization, gave up the social argument with the phrase that 'there may be worse things than monopoly.' The point is that industrial authority is self-created and non-elective; that its influence becomes great, and reacts on its claims. In the post-War discussion in England, the reaction in favour of big business hid itself under the borrowed name of rationalization, which became the conventionally right word to use, because it had forced itself into that position. There was a tendency to abandon the sense of a problem of monopoly. The Balfour committee ended its discussion with the hope that the scale of responsibility, and the labour involved in high organization, would cause industrial leadership to be considerate and 'imaginative.' Dr. Liefmann's conclusion is similar; the 'sense of interdependence' must become stronger than the 'thought of economic advantage.' Nevertheless, sheer authority is

the second element in the social problem of monopoly.

The third element is the unusual degree of *complexity* which the higher organization of industry creates. There is no good parallel of this in other fields of administration. It is a result of joint stock, which enables the interlocking of interests, whether similar or not, to take place almost without limit. It is not easy to create the publicity which would show the full range at any time of the factors of capacity and authority. The maze of interconnexions may become a matter of prejudice and distrust, especially but not exclusively in its international bearings. Monopolistic influence is not simply a straight problem of the size of the administration of one service. Even if industrial finance is flexible enough to make these wide interconnexions manageable as a system of interests, the community, on occasions when the complexities are made public, is alarmed and disturbed, as if a march were being stolen on its market alternative. There is then the 'octopus,' not 'rationalization.' Democracy likes to think that it understands how it is governed or served.

These remarks aim to show only that there is a serious fact of monopolistic tendency, which is liable either not to receive, or else to overbear, its share of attention. The modern State is increasingly economic, and industry is increasingly complex, authoritative, and influential, without having yet been made responsible in the same proportion, by any means of election or appointment. We cannot simply give up this problem by coining a new name for monopolistic influence, unless rationalization means that the fact is modified in a new way.

Administration.

While it is always necessary to have regard to monopolistic possibilities, in face of the facts just explained, it is just as certain that industry must have proceeded in the direction of combination. Apart altogether from any excesses of competition, this seems to be a bare fact of evolution, and a sign of the use of ordinary reason and judgment among producers. Competition does not extinguish the sense of what is administratively proper, and there must come a stage when this sense is not satisfied by arrangements for discussion and conference. This perception may indeed be the fundamental influence, even when 'excesses of competition' is the reason primarily

given. If industrial equipment is liable to be established in advance of what can be immediately employed, and with a reserve for development, the sum of these reserves, when the scale of production is large, may come to be as great as the establishment of several new enterprises. It is then desirable to make a working arrangement, and there would not be much 'higher command' of industry if this were not made. An obvious case of the straight policy of administration occurs when a number of producers are selling in a distant market. Combination for the purpose of consignment and sale of the whole product has led producers to make the co-operative arrangements of which there are many examples in the field of agricultural produce, and the anti-trust laws of the United States have perceived that in other products also foreign selling is a proper function in which to combine. In the near markets, the fact of special *clientèles* may delay for a time the sense of higher administration. Administrative sense is as important a pole or term of the complete problem as is monopolistic endeavour. When Dr. Liefmann says that 'a cartel without monopolistic purpose *is* nothing at all,' he is using the word monopolistic in a special sense, in which it means administrative tendency.

This phase of the problem of combination can be looked at in a historico-analytical way. The analysis of competition was derived by Cournot from that of pure monopoly, by multiplying the monopolists. It is conceivable that the historical process might have taken place in the same order, a monopoly to spin wool or cotton, or to forge iron, being gradually extended by removal of restrictions on new entrants to the industry. If we had worked downwards from monopoly, instead of upwards from competition, in evolving the level at which industry had a proper combination of both the competitive and the administrative elements, then we would have regarded pure competition as the limit of excessive development, just as we now regard pure monopoly. We would have spoken of the danger of pure disorganization, instead of the danger of exploitation. The conditions now being sought for under the name of rationalization are between these limits of pre-assumption, and may therefore be regarded as a departure from whatever end of the scale is assumed as 'natural,' in the direction of the other 'extreme.'

Those, therefore, to whom the regulative idea appeals most strongly — that is, all who in some form have adopted the 'planning' conception — may regard the cartel

as not so completely rational as the merger, as a lower *organization*; those who are more cautious in their departure from the competitive origins will more readily accept the cartel as the compromise — the ‘working of competition within an envelope of monopoly.’ If we contrast the starting-point of Cournot with that of Ricardo, the ‘letting down’ of organization with the ‘building up’ of combination, the idea of ‘dissolution’ with that of ‘restriction,’ we see ‘rationalization’ as the attempt to make a working arrangement on a level where these limiting concepts are most suitably combined. This may not be the same for every country. The law of one country may have a different prejudice from that of another; there is, for example, no ‘restraint of trade’ in Germany in the sense in which English law regards it. There may be a differing business psychology, derived from the size or conditions of evolution of the home market, or reflected from some national bias that is more or less favourable to discipline and order, or created by a tradition of family business. Restriction of production, and restriction of organization, contend with each other with varying bias. This contention is the setting of the true problem of rationalization. It has been very well expounded by Dr. Saitzew of Zurich, who uses the method of three-dimensional co-ordinates to combine the elements of motive, method, and direction of grouping. The motive may vary, on one axis, from risk-avoidance to exploitation; the method, on another axis, from loose agreement to fusion; the direction, on the third axis, from the purely vertical to the purely horizontal.¹ In this way, the conception of rationalization is itself rationalized.

We cannot, at the same period of time, apply this administrative idea generally to all industries. In England, the average size, reckoned in paid-up capital, of joint-stock companies, has tended to decline, in spite of changes in the cost of equipment. What this shows is that the history of industry as a whole cannot be considered similar to that of particular industries; there appears to be a constant influx of new industries, with an initial preponderance of production on a scale below the average of all industry. It is in the history of each industry taken by itself that the question of administrative control arises, and the existence of large-scale production in each such industry is already assumed. The economies of all kinds of combination begin to be considered when the scale of independent enterprise has reached or at any rate approached the limit of economy. Therefore the field for the new development is a

small part only of the total industrial activity. It has been shown by Dr. Thorp that in the United States combines accounted for only about 8 per cent of all establishments in 1919, though their share of the output is now about one-third, having apparently doubled since 1900.

In dealing as economists with this aspect of the combination movement, it must be a postulate that the administrative economies do exist. If enterprises are combined purely to avoid risk, however great this pressure may be, this does not fully supply the postulate. The economy of risk-avoidance might not be enough to stabilize combines against large-scale independent competition. The motive of risk-avoidance must find favourable administrative conditions. These conditions, it is plain, must arise out of an integration of what have been called external economies. There are economies which are external to an individual business but internal to the industry as a whole, such as are often created by trade associations, and these can be more fully organized when one policy takes the place of many policies subject to common discussion. Also, there are economies external to the industry as a whole, arising out of the general state of national industry, and a common industrial policy may adapt these more directly to the requirements of any industry; transport conditions are a special case of this. In the same way, when combination is vertical, the risk-avoiding desire for 'own-production' of materials must be coincident, in the degree desired, with cost-reducing results in the new relation of enterprises to each other. Otherwise we enter the field of manoeuvre to maintain the combines, an important field, but different from that of the straight administrative conditions.

In England, especially since the War, there has been much discussion whether in certain great industries these administrative possibilities have been made full use of; this discussion has specially concerned the coal, cotton, and iron and steel industries, and has been extended to agriculture in a different way. It has been said above that industrial organization is to a great extent its own authority, since it is a question of technical conditions in which the State is not expert. The question arises, when public policy is critically directed to the conditions of organization in great industries, by what tests it can justify its criticism. In Germany and America this problem has not arisen in the same way as in England; it is in England that a lag in the tendency to combine, or to rationalize, has been said to exist. The attitude toward

cartels and trusts has notably changed.

To revive an old word, there appear to be three *sanctions* for the public policy of rationalization; that is, sources or bases of evidence from which public authority, though not technically expert, may derive justification for pursuing or enforcing combination. First, it may direct against a particular industry the criticism of *general industrial tendency*. If a great public interest is involved in the condition of some fundamental industries, and they appear backward in organization, then, as has happened in England, they may be asked to show cause for this condition, and the criticism turned upon them by reference to the progress of organization in other industries, though non-theoretical, is valid. The state of the coal and cotton industries may in this way be criticized by reference to the chemical industry. There may be a good answer, since industries have technical differences, to what is, all the same, a good question. Second, the sanction may be that of *foreign practice*. If high organization is successful abroad, why not in this country? For a long time, this has been the line of criticism taken in reference to British agriculture. Why cannot the British farmer do as the Danish or Belgian farmer has done? More recently, the West-phalian coal cartel has been the channel of criticism of the British industry, memoranda in its honour having been issued by the royal commissions. In other industries, it is pointed out that their greater administrative unity abroad has enabled them to enter with more authority on international agreements. It is more to foreign comparison than to anything else that we owe the change in the British attitude toward combines in the post-War, as compared with the pre-War, period. This sanction is only valid when there is not a dissimilarity in original conditions, and is therefore of more force in the manufacturing than in the extractive industries. Business psychology is not accepted as such an original condition; such as the mood of the British farmer or the traditions of the cotton industry. The difficulty of this sanction is variability of foreign policy. There are no cartels in America, and agricultural cooperation is not the same thing in Denmark as in Germany. Nevertheless, this is an important sanction, whose validity has been accepted in several British inquiries since the War. It does not apply to economic organization alone. But in the *third* place, the factor of variation in industrial or national conditions creates a further sanction, namely, the *authority of leaders* in each

industry. It is, as a rule, possible to name these leaders, and the lightness of urging or enforcing the higher organization is questionable without their support; or at any rate the rightness of urging these changes at a certain time or pace. This does not mean the general consent of the industry; the appeal is within each industry, from present tendencies to men of experience and initiative, already holding high positions. When this appeal fails, as in the coal industry, we have the dilemma of such considerations as the first and second sanctions present to economists and publicists being against the most expert practical knowledge that can be obtained. The State must then decide, as in the coal industry, whether to pursue a policy which is against the sense of those who have to work it.

In this section, it is the right measure of higher industrial organization that is in question; in the last section, it was the right control of it. They are both, as has been said, poles or terms of this whole problem. Monopoly and higher organization are externally similar; the latter is simply monopolistic influence beneficently applied. This position is obviously very unstable, so that some parallel evolution of industrial law is a further element of complete rationalization. This requires attention to a third pole or term of the problem — the emergence of new factors of industrial competition.

Trade Practice.

A third term of the whole argument on combination is the question of trade practice. It will be seen that Dr. Liefmann gives much attention to this aspect, when he is dealing with the relation of cartels to outsiders, and more particularly in his discussion of the exclusive agreements and boycotts. The similarity in outward appearance of a monopolist combine and a higher organization of industry has caused an increasing amount of attention to trade practice as the criterion of the real nature of the combination. 'By their deeds ye shall judge them' is a phrase which represents in large measure the attitude of the law. 'It is a very serious question,' says one author, 'whether, should certain practices be prevented, the alleged natural tendency to combination would not vanish into thin air.' A typical list of these practices can be found in the annual summary of the Federal Trade Commission of the United States. The German cartel decree of 1923, and the Clayton Act of 1914,

are concerned with those practices which have been found to be of major importance and of specially *industrial* significance; because of course there may be employed in industry methods of injury, fraud, and deception, which arise simply out of evil purposes and not out of economic conditions in particular.

The attitude of the law in different countries has been so variable as to make it difficult to make any sort of classification of the acts themselves which combines have practised. But some general distinction in ideas can be obtained from a comparison of judgments and decisions in a broad way. First, there is the idea of *good conduct*. What is *contra bonos mores*? This is expressly included in the civil code of Germany and other countries, and it overrules the more particular reference of the cartel court, or similar jurisdictions. It is not the same as the idea of what is 'fair' in industrial competition, or even the 'rule of reason' as applied to special statutes. To bribe the employees of a competitor to betray trade secrets or injure his machinery, to damage his reputation by false statements or advertisements, or to induce his customers to break their contracts, are *contra bonos mores* in industry for reasons not arising out of the stress of industrial competition in particular; society does not countenance them *mutatis mutandis* in any relations of persons to each other. Second, good *results*. Here we come into a very difficult field; we are now specially dealing with industry, and the effect of practices on the service which industry ought to render. These results are finally results in respect of the common welfare, but the effects of practices on individuals may be taken as the symptom or clue to their probable effects on welfare. For example, in the German cartel decree, the effect on the 'common good' is to be considered, but also through the medium of restraint on the freedom of individuals. In American legislation, the practices in question are considered according to their effects in 'stifling or suppressing competition'; and, in particular, *any* cartel or agreement of that kind is illegal, on the assumption that its results, via the position of individuals, must be against the tendencies that are good. It is plain that this must be a matter difficult to decide from a legal standpoint alone. For that reason, English lawyers have usually declined to enter on such discussions, as involving too debatable a ground. It was ruled in the Mogul Case that Courts of Law could not be expected to deal with questions of political economy; and in another judgment that 'their lordships are not aware of any

case in which a contract, though reasonable in the interests of the parties, has been held unenforceable because it involved some injury to the public.' Public policy, in the English decisions, does not mean consumers' interests; it lays more emphasis on the precedent which would be established, as matter of personal rights of action and contract, that is to say, on the generalization to which the particular decision would be liable. It is plain indeed that a decision on good results cannot be well argued except before a tribunal of special economic qualifications. Such a tribunal may in time establish, within the scope of a Statute, a case-made law of trade practices; and for this reason, the decision by results plays a greater part in America and Germany than in England. Third, *good motive*. Is it the intention to create a monopoly, or to obstruct a competitor, or do the practices only show self-defence in a sphere where defence *must* have some aspect of interference with other economic subjects of the same grade or function? The '*attempt to monopolize*' is contrary to the Sherman Act, and the question of motive runs through a large number of the American judgments. No practices are more important in this respect than the exclusive contracts and boycotts to which Dr. Liefmann gives special attention. The problem of good motive is distinct from that of good morals; because it has to take account of the pressures and risks of the competitive system, in which an individual must necessarily be aware that an increase of his business may at times and for periods of time be at the cost of his competitors. It is clear that good motive must be even more difficult to decide than good results, because it must have regard to the field of discussion, the industrial competition, and to the results of *not* making use of important trade practices. For example, two public inquiries into the shipping trade of England have endorsed the view that failure of the lines to use the rebate system, or some equivalent exclusive contract, would disorganize the regularity of line service. There is also considerable continuity between the practices, which gives to any one of them the credit of the best motive of any; for the local discrimination of prices is the offer of terms so exceptional as in effect to pass naturally into the exclusive contract, and the latter has its final development in the integration or vertical amalgamation of the dealer. Fourthly, *good relations*. In English law, this is the most important consideration. Were the acts 'reasonable as between the parties'? The implication of this point of view is, that no court of law can give a remedy for the fact that business

is a kind of trade war, which no one should enter who does not accept the conditions of risk and opposition and strife which are implied. Within the scope of this assumption, acts and contracts must be tested by their maintenance of such rights to limit or extend activity as belong to a fair interpretation of individuality. The business undertaker cannot expect either protection against or a licence for more than certain degrees of enterprise. The interpretation of reasonable relations depends in England on what is called 'good consideration.' A person who limits his enterprise by contract, receiving no advantage in return, has restrained trade without compensation, and this is not public policy; a good consideration enables him in some other way to maintain or extend his function.

As far as a layman can judge, the intricate and, as between different countries, variable law of combination can be subsumed under these categories. There is further argument as to whether the general right to adopt some trade practices can be suggested by reference to trade union labour practice. There is *prima facie* similarity between boycotts, limiting or demarcation agreements, and the motive of combination, in the two fields. The Sherman Act has in fact been construed as including labour combinations, and in later legislation the exclusion of such combination has had to be expressly enacted. It will be seen that Dr. Liefmann, in dealing with exclusive agreements and boycotts, regards as relevant a reference to trade union practice. In my view, this extension of the argument must be very carefully considered, since the analysis of labour combination leads back to conditions fundamentally different from those which apply to producers.

Of course, the problem of trade practice does not necessarily apply to combines alone; the American fair-trade clause of the Act of 1914 has general application. But the policy of combines is the most critical field of its application, because the important effects of the main practices have then a wider range, and some of them are of little effect unless adopted by bodies having monopolistic influence. The evolution of combination has created the most serious problem of practice, because it has fully evolved the meaning of industrial competition. Any one who reads the account of this 'just, equalizing, and beneficent' influence in the characteristic chapter of the economist Hearn will see how the assumptions of that time have now been upset.² I have elsewhere shown³ how we must regard competition as a question

not only of reaction of supply to given conditions of market price, but also of the imposition by producers of long-range conditions, and the use of strength to impose them. What I then called 'bargaining and resource' belong to the idea of competition, that is, to the endeavour of any individuality to maintain itself in its function. What combination limits is not competition, but only the number of independent competitors; the *strength* of competition is rather increased than diminished thereby. The full content of competition was really made plain by the trusts and cartels.

It may be a question, however, whether the use of trade practices implies that combination has been carried beyond the point of greatest economy in the strict sense. If combines make for productive efficiency, is this not the sufficient condition for meeting new competition, actual or latent? It appears to me that trade practices will hold almost a normal place in private industry on two grounds. First, there will always be the transitional period when combination is being developed as a better administration, and this usually implies that surplus capacity has to be dealt with. If the method of bankruptcy is not allowed to remedy this, some charges must be carried on the costs of the new administration, as retrospective costs. At the time of writing, for example, the English cotton industry is considering a levy in order to buy out and close down excess capacity; and, if this is a good purpose, the new organization may not be able to make economies to offset this dead charge. If it has not an indefeasible monopoly, it may therefore have to secure its position by the adoption of trade practices. But, in the second place, apart from such exceptional conditions as exist in the post-War period, investment has often, perhaps usually, to anticipate the market, to an extent which is a problem of judgment, and to hold capacity for the sake of development. Investment cannot be made strictly continuous, and at the same time combination may increase the efficiency with which attention is applied to this factor of development.

There is now general consent to the view that, mainly because of the range of trade practices, some special jurisdiction is necessary to review them on appeal from injured parties, or on the initiative of some public official. The Federal Trade Commission, and the cartel tribunal, are the chief models of such a tribunal, though they work upon very different assumptions, and adopt very different lines of remedy. I need not anticipate Dr. Liefmann's full account of the German system. In England,

the common law, taking a legal view of relationships, has been generally favourable in its decisions to combines in their use of practices against third parties; but will not enforce the contracts between the parties themselves. The absence of evidence on economic results is a serious defect, especially with the extension of control over retail prices which is now being employed by associated producers.⁴

The defence against trade practices is own-production. There may be other economies in backward or forward integration, but to a large extent it is caused by a desire for security. The relation of the 'mixed business' to cartel policy is fully described by Dr. Liefmann. Of the head of a great English combine, the late Lord Leverhulme, it is said that he 'always held that he would not have been wise, in view of his extensive manufacturing interests, to have allowed himself to be at the mercy of the market for his supplies of raw materials.' This term of the argument has been properly described as *Gewerbepolitik*.

Risk.

It will be seen that Dr. Liefmann finds the significance of the cartels (and presumably of other combines) in the economic factor of risk, under modern conditions of competition. The cartels are 'the product of the growing divergence between the risk of capital and profit.' For this reason chiefly, he separates the modern combination movement from such earlier kinds of association as the guilds.

He does not neglect the fact, to which increasing attention has been drawn in recent economic discussion, that modern competition is not entirely blind. There are always relations of more or less implicit combination between producers, in trade associations and informal conferences. Further, there is usually some element of monopoly even under free competition. There is genesally some part of the market in which the individual producer is protected by an element of goodwill, as is shown by the fact that the value of this element can be capitalized when a business changes hands. Between this preserve, and the *Konkurrenzkampf*, there may be a fringe of the market over which he has a considerable, but less firm hold. Much use has been made of this consideration in handling the theoretical problem of equilibrium between competitors under conditions of decreasing cost. It may however be a question whether this consideration is not now one of lessening importance in the

field of mass production, where standardization is giving less room for the goodwill of brands. In the field of the great industry, we must expect an increasing fluidity of custom, and therefore an intensification of independent competition.

In another aspect, the problem of independent competition is connected with the fixed investment of capital in a changing economic conjuncture. For the 'representative' business, which is assumed to be adapted as regards its scale of investment to a given volume of demand, is not really adapted to it in the strict sense. Investment, as Marshall was careful to point out, does not proceed with the same continuity as demand. The units of change in investment have to be taken large, so that considerable reserve capacity may have to be created before it can be fully employed. There must, in a dynamic economic system, be this continual provision for development. In other words, a business must be representative as regards the *phase* in which its industry at the time stands, and this creates an element of competitive instability. For there is a constant pressure on the business to run full because of its fixed charges. The economy of running full is *not* the economy of large-scale production, and is a different thing from the economic law of decreasing costs due to a larger scale of production; though the two are often confused. When we are comparing one scale of production with another, running full must be assumed in both cases. The advantage of one scale of production over another is not mainly due to the question of distributing fixed charges, but to the possibilities of organization. Marshall, for example, lends no authority to the view that large-scale production is a question of the fixed charges. In a dynamic industrial system, however, great businesses are very liable to be in the condition which may be called *false decreasing cost*, since there must obviously be an advantage in forcing the market so as to gain the economies of running full. Dr. Liefmann's argument is concerned with a dynamic economic system, in which invention plays a large part, and where, to speak technically, this factor of false decreasing cost is an important element of instability.

Apart from the influence, probably diminishing, of partial monopoly for the individual, some degree of alleviation of risk may be given by the producers' own *sense of the market*. This is not a matter of even implicit association or agreement between producers. It will be recalled that, in the analysis of Marshall, this factor is

called into existence especially in bad times. 'The immediate effect,' he says, 'of the expectation of a low price is to throw many appliances for production out of work, and slacken the work of others; and if the producers had no fear of spoiling their markets, it would be worth their while to produce for a time at any price that covered the prime costs of production, and rewarded them for their own trouble. But as it is, they generally hold out for a higher price; each man fears to spoil his chances of getting a better price later on from his own customers; or, if he produces for a large and open market, he is more or less in fear of incurring the resentment of other producers, should he sell heedlessly at a price that spoils the common market for all.'⁵ It is not plain why this sense of the market, if it exists, should have the range of its application limited to periods of depression. If producers are like that, then even under true decreasing cost competitive prices will have some regard to the pace at which production can be developed without reprisals or disorganization. What is possible at the most difficult time cannot be out of the question in more ordinary conditions. The 'increasing divergence of risk and profit' must be taken to imply that either this sense of the market becomes less considerable, or that it does not act as strongly in the world market as in the home market, or that the events and tendencies to be 'sensed' become more numerous and complicated than it can feel without a large degree of error — in the absence, that is to say, of any combined policy at all.

Of course, it is also true that joint stock has done something to lessen risks by the opportunity it offers to spread investment. Companies as well as individuals can partially insure themselves by distributed holdings. This fact, however, does not meet the real problem of competitive risk. A company as such will endeavour to maintain its own competitive position, whatever its other investments. Besides, they will and ought to find the main outlet for investment in their own development.

It may also be held that modern capitalistic industry only justifies its claim to profit by the exercise of the function of taking risk. Those who go into business must realize the nature of the world they enter. Every business must be a maker of risk, in respect of its initiative and enterprise; it cannot avoid this function. It must, *per contra*, be a taker of risk in a number of ways, and must organize its capacity to accept, disperse, or prevent risks. It must also be capable of bearing losses. This argument has some force, and has been pressed against the whole trust and cartel

movement. It must be remembered that trusts and cartels are not to be contrasted with small-scale production or marketing. Large-scale business is assumed, when the question is of the further step into combination. The risk argument means that even with all the resources of large-scale industry, the incidence of risk-making, risk-taking, and loss-bearing is out of relation to the long-period profits of business.

Is it possible to put this question to any sort of positive test? It involves important propositions regarding the relation of business to enterprise and to the changes of the environment. The argument is that amalgamations are, in one aspect, the defence of enterprise against excessive competitive risks. The trade cycle shows the ups and downs of activity, and it may seem at first that, on the risk theory, the pace of amalgamations should be related to it in an inverse way, increasing as the conditions of business are worse.

There are, however, two exceptions which may be taken to such a test. The trade cycle would have a bad psychology if measures to meet business risks were taken only when these risks had already become excessive. The reasonable psychology of the matter is both that the recurrence of cycles is a long-period risk which prepares the ground for organization against it, and wears down the objection to the sacrifice of independence by producers; and that the short-period stress of bad markets is an assisting fact in this direction. Hence Dr. Liefmann's addition of risk prevention to the defensive idea of combination. The other exception is on the ground that combination is a form of enterprise, and that enterprise is in all its aspects most prominent in times of good trade.

It is nevertheless worth while to mention what the evidence is as regards the long course of trade risks, and the reaction of enterprise to fluctuations. In this country, the long course can be judged either by the rate of insolvent liquidations of companies, of which there is an index since 1884, the first year in which the number of registered companies is known; or by the proportion of paid-up capital involved in all liquidations, which is known only between 1891 and the War. By either test, there was a strong downward tendency in the incidence of risk. After the War, these tests become inapplicable. In the United States, it has been shown by Snyder that over a much longer period there was no increase in the incidence of risk as judged by insolvency.

With regard to the temporary conditions of the market, it has been suggested by some writers that a state of depressed trade is favourable to industrial reconstruction, and that plans for reconditioning and rationalization would naturally be made then. The stress of the risk factor might be expected to increase this tendency. But as evidence has not hitherto been presented to verify this and other aspects of enterprise in relation to the cycle, the following propositions may be set out.

First, company enterprise directly follows the trade cycle. When the trend of company formations is taken out by a seven-year average, the annual indices against the line of trend, when averaged for the periods of rising and falling trade, show variations between good and bad times which are clearly marked.

Second, company failures inversely follow the trade cycle. This had not been shown to be the case, because of the defects of the figures available (e.g. to Aftalion), and trade-cycle theory requires every kind of verification. Complete and classified figures are now available. They show that, when insolvencies are separated from other liquidations, and the same method is used as for company formations, the fluctuation is marked, though it is not so great as for formations.

Third, what is of most importance here, amalgamations in this country directly follow the trade cycle, so far as they have any tendency at all. It is quite clear that they do not follow it inversely. The data are at present available only between 1890 and 1913, that is, for six cyclic phases.

In the United States, similar results have been proved by Snyder and Thorp. 'The consolidation movement appears to be most active in periods of prosperity, and to show a marked decline during depression.' This post-War conclusion of the official statistician of the Census conforms to the well-known pre-War fact that the greatest period of trust formation was on the rising market at the close of last century.

The increase of credit facilities, the strengthening of joint stock methods, and even the progress of amalgamation, may have contributed to the diminishing appearance of the risk factor. Its downward trend, while there was no trend in the figures of unemployment, show a divergence in the incidence of risk as between the parties in industry. Competition should be described as chaotic, ruinous, cut-throat, or excessive, only in those cases or aspects where these epithets are true, and not habitual. The influence of the risk factor is now being absorbed into the general

policy of rationalization, whose outlook is to the future rather than to the past.

The Evolutionary Significance.

Finally, there is the aspect of combination in which it is regarded in its *evolutionary significance*. Is it a preparatory step to some kind of socialization, or is it a solution of the competitive problem which can be maintained by private capitalism, thus cutting off the necessity of state intervention? The sharpness of this alternative has been much diminished since it was first presented, by the evolution of methods whereby the State can give to whole industries the position of 'industries in commission,' or 'semi-public' industries. The interest of the shareholders in profit is limited, and the directors have a delegated and supervised authority in management. The chief field of application of this method is public utilities, in which domestic competition has special causes of limitation, and international competition does not exist. From this to fully competitive industry, or to the supply of transferable goods, is both theoretically and actually a considerable step. In England and Germany, the State has begun the creation of compulsory cartels, and is feeling the possibilities of intervention in the organization of some fundamental industries; but these steps might be retraced, the political attitude being liable to change. I agree with Dr. Liefmann that we have to keep these results in view, and that combination has itself to provide the spirit favourable to their further evolution; the 'sense of interdependence' must permeate and modify the 'sense of opposition.' In America, socializing in the broadest sense of the word is too far off to be yet discussed; no general proposition could be formulated. Industrial evolution rather leads the study of it than the study of it the evolution. This does not mean *laissez-faire*, but the recognition of a momentum of change, which absorbs and modifies *laissez-faire*.

There are some directions in which this evolution seems ready to show important possibilities for the future. One of these has already been mentioned — the increased status, as compared with fifty years ago, of industrial in relation to professional occupations, due to the creation of a greater scope for management, authority, and responsibility.

Second, the stability of industry. The presumption is a fair one that combination can improve the conditions in this respect; for some causes of instability are certainly

due to overlap and multiplicity of enterprise. Dr. Liefmann has much to say on the power of cartels to stabilize prices. The desideratum is the price policy which will lessen fluctuation of industry; this may certainly depend on limiting the extremes of price movements, but that limitation may, in my view, result from bold price policies. To go quickly above the market in a rising conjuncture, or quickly below it in a falling one, *may* be the method of intercepting the rise and fall, and checking its range, but this is not a settled point, and Dr. Liefmann is more favourable to controlled change in price. It has usually been supposed that this function of control rests chiefly on banks, as the sources of the requisite of credit, without which there cannot be expansion; and in some ways this is a dangerous assumption, if it leads industrialists to think that control over fluctuation is not mainly their affair. There are other requisites of expansion besides credit, and a coal cartel might, in the interests of stability, control its own requisite. But how? In the case of the banks, it is held that if they put up bank rate quickly at a certain period, the total fluctuation will be less; if it goes up from 4 to 6 or 7, then it may not have to go up to 10, because the speculative influences on industry will be headed off; while if it creeps up by halves per cent, these influences may grow, till 10 Per cent is the crisis rate. What, by analogy, should a coal cartel do? Hold the price as steady as possible, and control the supply? Or use the price instrument to anticipate the rise of other prices or catch their fall, thus steadying enterprise by lessening or increasing profit margins over costs? This is a debatable question; but the combination movement at any rate gives to industry itself a share in the function of control over fluctuation, since it creates the unity of policy which the banking system in recent times has obtained by its implicit combination under central bank influence.

Third, the integration of the interests in industry, the producer, the employee, and the consumer. There have been steps taken in England and Germany to give to labour consultative rights in industrial administration; but a full share, through representatives, in the control over industry cannot be obtained by labour directors in separate businesses. It is alien to the spirit of the labour movement to be thus thrown into the competitive strife; but the position is different in combined industry. The German coal cartels must by law have labour representatives, with full rights, on their own governing bodies, and on the coal council of all Germany, which finally

controls everything. The same is true of consumers' representatives. This integration of interests is a better method than that adopted in England, where no labour representation on the coal board exists, and the consumers' interest is to be safeguarded by the criticism from outside of committees of invigilation and investigation. It is to be remembered that there are as yet few cartels or other organizations so placed in the saddle that they can really carry out this integration of interests; there is nothing more as yet than the indication of possibilities of this kind as combination extends under private, public, or semi-public authority.

Finally, we may find ways, even if only in a few industries, of arranging the use of unemployment funds, by advance and recovery, so as to keep men in work and not in idleness. This is out of the question with a great multiplicity of quite separate producers. But I am not sure that it does not deserve a second thought when the State can advance to and recover from some more complete organization of producers. And similar methods of advance and recovery may be found workable in respect of wage disputes when, failing an agreement by negotiation, provisional terms can be made for the continuation of work, for final adjustment by recovery according to the terms of an arbitration. Such ideas may be more feasible as unity of industrial administration grows.

For such attempts to define the future, Dr. Liefmann is not to be made responsible. He will, I hope, pardon anything in this Introduction which goes beyond his own careful estimates. It is to his own account, continued over so many years, of the evolution and significance of industrial combination, with all its checks and balances, that with many others I owe the debt of knowledge and stimulus to inquiry. To the *doyen* of these researches, this translation is a grateful tribute.

D. H. Macgregor
Oxford, 1932

Part I: The Nature And Origin Of Cartels.

Chapter I: Economic Federations, Associations And Companies.

Modern Economic life is based on the most involved mechanism of exchange. No man produces the goods which he himself needs; he is obliged to acquire them from others in exchange for money, and most men are gainfully employed in offering goods and services to others in order that, with the earnings from such goods and services, they can ensure the satisfaction of their own needs by means of this money. Thus innumerable specialized earning activities have been developed which we call trades or professions. Now, it is evident that men do not practise their trades and professions in complete isolation from each other, but, on the contrary, show a lively desire to establish close contacts with their fellows in the same trade. At all times this has been so. True, one cobbler regards another cobbler as an opponent because he may take away his customers or, as we say, enter into competition with him; but, in spite of this, the most varied relationships exist between and with all other cobblers. For instance, they have a very extensive sphere of common interests, as against the tanneries, the leather factories, the leather merchants, the producers and the merchants of all other materials they may need, the boot-and-shoe shops, the consumers and finally the Government that regulates their trade. With a view to the common defence of these interests the cobblers form associations of the most varied character, some merely local, some more extended and some perhaps even national in their scope; and to-day, in the age of press publicity and mass printing, they usually have a trade journal to further the purposes of cobblers' associations. The

same happens with all the other money-earners, and in modern economic life the part played by these trade associations under various names and in various forms is of the first importance.

‘Economic or Trade Federations’ is the term most generally in use for such formations; but when one looks more closely one can distinguish three main groups according to type of organization or formation without going into detail regarding trade or industry represented. Those groups may perhaps be characterized as follows:

1. *Trade Federations or Technical or Professional Associations*. — These are the loosest federations — this term being most generally and comprehensively employed of industrial and trading bodies. They aim at defending the economic interests of their members as against other economic interests or the government, but they make no attempt to interfere in the activities of the members themselves. These interests being very varied, the circle of persons who enter into such unions is also very varied. The more general the interest and aims which are represented, the more people covered by a union of this nature, the looser becomes the texture and the relationship of the individual to it. Thus the most important federations or institutions — if we include purely technical or professional — are those formed by members of the same profession or trade, the so-called ‘technical or trade institutions’ (Fachvereine). But general associations rise in considerable number above them; thus above the individual industrial institutions, the Central Association of German Industrialists (Zentral-verband deutscher Industrieller) and the Federation of Industrialists; above the individual institutions in the chemical industry, the Association for promoting the Interests of the Chemical Industry; above the numerous institutions in German engineering, the Association of German Engineering Firms (V.D.M.A.); and at the head of the whole German industry the National Federation of German Industries (Reichsverband der deutschen Industrie). Other groups are the Hansa Federation for Industry and Commerce (Hansabund fur Industrie und Handel), the Federation of Agriculturists (Bund der Landwirte) and the German Agricultural Society (Deutsche Landwirtschaftsgesellschaft).

The union of the narrowest groups, the technical associations, is industrially most important. To it belong, for example, the so-called trade unions, as they confine themselves to defending the interests of the workmen as against other outside

interests, and do not attempt to regulate their industrial activities directly; to it also belong the numberless professional associations of people engaged in agriculture, industry, commerce, transport, the liberal professions, etc., in which people of the same economic status are banded together in defence of their common interests. This is the case for instance, where the small retailers conduct a campaign through their organizations to secure legislation against the big stores and the co-operatives; where the professional associations in this or that industry demand higher protective tariffs or lower transport rates or a diminution of the burdens represented by social taxation and the like; where associations of civil servants or public officials agitate for a revision of salary or pension rates, for equality of status or of emoluments, etc., etc. But out of such professional associations may develop a second, more solid form of association, viz.:

2. The industrial or trade association which regulates the activities of its members to conform to a definite aim — when, for instance, the members of a Trade Union are not content with agitating for a rise in wages, but agree not to accept work under a certain minimum wage, even at the cost of a strike; when the retailers undertake not to buy from any manufacturer who supplies the big stores; when the employers in a given industry agree among themselves not to re-engage workers who have taken part in a strike, or not to supply merchants who in re-selling have not kept to the prices fixed by them. In all such cases there is a mutual undertaking on the part of the members which goes beyond the mere furthering of common interests through the professional *associations* and is not restricted to action within these associations — a mutual obligation to carry out or to refrain from particular acts conducive or non-conducive to a common aim. The members may agree to surrender their liberty of action or submit to control through joint agreements. In this case we can use the term — associations.

3. The third form of association is that of the business *corporation* or company. This is a combination of individuals to undertake some economic activity. Such companies are, as a rule, profit-earning; the bond uniting their members is the pursuit of gain.

They occur in many and widely diversified forms, ranging from a small group in a trading company to the joint stock companies in which an unlimited number of

persons may have a share in the undertaking. To this category belong also the co-operative societies since they are combinations of individuals of the same type to carry out a joint enterprise. While, however, co-operatives are joint enterprises and are not merely unions or associations, they have so many points of real difference from the ordinary industrial or trading company, that it is better to treat them as a special form of enterprise parallel to the industrial or trading company. Co-operative societies do not earn profit as such, but are rather an amplification of the work carried out in the sphere of domestic and trading economy by their members and impose a co-ordinated or single unit instead of many scattered activities. They have a fundamental similarity to a union or an association inasmuch as their members have joined together for a common purpose. The first is the case when no special economic attitude *vis-à-vis* the common body, which is a company in the broader sense, is desired, i.e., in consumers' co-operatives. More closely knit enterprises occur when purchasing or selling co-operatives restrict activities of their members in some way favourable to them. Under certain conditions they come close to the cartel, which we define later.⁶

It must here be emphasized that the *cartels*, which are to occupy us first, belong to the second group of economic unions, viz., the associations. They are associations of entrepreneurs, while the Trusts, of which we shall speak later, belong to the third group and are combinations or companies of entrepreneurs. But with this the distinction between the two types of organization is not complete. One should recognize at once that all associations are not cartels and that the term is confined to entrepreneurs : it excludes the associations of workers, such as the trade unions. And yet I should like here to emphasize the fact that, in their organization and the part they play in economic life, cartels and trade unions are very similar. It is important to recognize this to-day, when the trade unions have attained to full equality with employers' associations as far as power and influence upon the national economy as a whole are concerned.

Now we have tentatively assigned to the cartels and trusts their place among the many organizations of modern economic life, we shall say a few words about their economic significance. Every one in Germany has had plenty of opportunity for convincing himself of the reality of the cartels and trusts. For several decades every

one has been affected by them in a greater or lesser degree, not merely in Germany but — we may safely say — in every corner of the globe. Even before the War, was there a housewife who did not express her surprise at finding that sugar or paraffin oil ‘had gone up,’ and receive from the shopkeeper the answer:

‘Yes the sugar cartel (or the oil cartel) put up the prices last month’? Who has not complained of the high price of coal and heard in reply: ‘Nothing will induce the coal syndicate to put down its prices; we retailers have cut our profits to the bone’? Who does not remember seeing before the War the tank lorries of the German-American Oil Company driving about the streets of our towns, and hearing that oil was so dear because the American Oil Trust ‘controlled’ the greater part of the world production of that illuminant? If this was the position twenty-five years ago, it is still more so to-day, not only in Germany but all over the world. Everywhere we find combinations of entrepreneurs controlling the market right down to the final consumer and not infrequently raising the price. It is mainly with unpleasant feelings that the public makes its first acquaintance with the cartels and the trusts; because it always occurs at a time when the public is made to pay more than it likes.

Cartels, trusts and similar phenomena have naturally greatest significance for the particular trades concerned. The conditions of production and marketing are entirely altered and utterly new economic arrangements make their appearance, and it seems as if they would lead to a complete transformation of the present-day economic system. It is therefore no wonder that discussions of socialization should have centred on such formations and that they should be regarded, even by non-socialists, as phenomena indicative of a new economic order, ‘planned economy.’⁷

But the effects of cartels and trusts are not confined to a single national economy. The Oil Trust, which we have already mentioned, has extended its influence over the whole world. In China it has made large advances of money to the Government in return for valuable concessions. In Mexico, where it has been engaged in a struggle with British capitalists for the control of the oil-bearing lands, it has been at times one of the principal instigators of the civil disturbances there. In Germany it attempted to defeat by force the plan of an Oil monopoly aimed against it. Wherever oil is discovered, it tries to create a sphere of influence; it has branches and subsidiary companies in more than fifty countries, and, in addition, its principal

shareholders have invested their vast profits in the most various branches of American industry, notably in mines and railroads.

But the Standard Oil Company is merely the biggest example of a capitalist expansion which is to be found everywhere on a smaller scale. Large-scale enterprises do not now consist of a single company, but result from mergers, the amalgamation of a number of undertakings. It often happens, however, that such a merger is not complete, and one enterprise is only financially interested in another. Thus so-called combines or concerns come into existence, very variously organized conglomerations of several undertakings, which are partially co-ordinated but mostly brought under one control as subsidiaries of large companies. Thus the Oil Trust of which we were speaking, the Standard Oil Company of New Jersey, stands at the head of a concern which includes some five hundred enterprises spread over the whole world and with a capital of some £1,000,000,000.

This trust, which, if not the biggest, is probably the most important and the most 'international' in its sphere of interests, has rivals in other industries hardly inferior to it in extent and international range. The big German electricity concerns, for instance, with their subsidiary or affiliated companies, extend over many countries, while the great companies in the German chemical industry have amalgamated to form a single concern with a share capital of 1,100,000,000 marks, which in turn owns many companies operating in hard coal and brown coal mining, the manufacture of explosives, electricity supply, as well as trading companies in different countries.

Even where the individual enterprises are primarily concerned in supplying the home market, they may stand nevertheless in the most intimate contact with enterprises in other countries and their organizations through the medium of international cartels. These international cartels are constantly increasing in importance; through them competition in world markets is being gradually restricted; by means of foreign branches and financial participations the national economic frontiers are swept away. Thus cartels, combines and trusts and all that they represent may be regarded as the high point of 'modern capitalism,' of the spirit of enterprise which exploits all technical achievement for the purpose of gain, the system to which the modern world has entrusted the satisfaction of its needs.

Before all those formations, the question rises more urgent than ever: what is their effect on our economic life? Can they be left to themselves, or should the State take a part in their organization and how? Here we come to a second question: whither tends this whole development? All these problems will now concern us.

The classification given in this chapter was first developed in my work, *Die Unternehmerverbände*, in the *Volkswirtschaftliche Abhandlungen der badischen Hochschulen*, Vol. I, No. i, 1897.

Chapter II: The Nature Of Cartels.

We shall now try to draw up a definition and describe the nature of cartels and trusts. For the man in the street the terms ‘cartels,’ ‘rings,’ ‘trusts’ and ‘syndicates’ all mean the same thing, and are used in an extremely vague sense. Here, in conformity to a well-known bad habit still extremely common in Germany, we are especially fond of using the English word ‘Trust’ and a word of French origin, ‘Syndicate.’ True, the word ‘cartel,’ which economic science has come to use side by side with ‘*producers association*,’ is not of pure German origin either, but at least it was coined in Germany to describe phenomena which were first observed in Germany.

We shall therefore consider the cartels first, as being the form of association most important for us in Germany. The term ‘Cartels’ we take to mean *voluntary agreements between* — or as we have called them, *associations of* — *independent enterprises of similar type to secure a monopoly of the market*. The monopolization or domination of the market is evidently the essential point in definition; it means that the cartels aim at excluding as far as possible competition within their range of activity. It is upon this monopolistic character of the cartels that their effectiveness both for good and for evil depends. We know certainly the means by which they achieve the position of monopoly; it is the agreement between members to carry out or refrain from certain acts in the course of their business activities, an agreement which makes a group out of a mere association of enterprises. Cartels are associations with *monopolistic aims*.

Misconceptions are widely prevalent as to the true nature of monopoly. People are

inclined to think above all of state monopolies, where the State reserves to itself the exclusive right to carry on a particular industry or trade, and so they deem it a monopoly where competition is legally or actually eliminated by State action. Such a view is too narrow. In the economic sense, a condition of monopoly obtains wherever a considerable portion of the demand may be satisfied only by one single supplier or (as in the case of the cartels) by one combined group of suppliers. It is therefore quite unnecessary for one supplier alone to exist (*absolute* monopoly). There may be several suppliers in existence, but, for some reason or other, such as higher cost of transport, alternative sources may not be available and satisfaction may therefore depend upon one seller only (*relative* monopoly). In this case competition is not actually or in the legal sense excluded; it remains, so to speak, latent and comes into play if at any time the price situation is such as enables it to overcome the preferential position of those who now have the relative monopoly. It is of special importance to note here that exactly the same is the case with the combinations of the *workers*, the Trade Unions. They too are monopoly organizations; if a trade union wants to obtain better conditions of labour by threat of a strike or similar methods, it tries, as far as possible, to unite all the workers concerned. The more a cartel-agreement manages to include all the enterprises affected — including, for instance, those in foreign countries — the nearer it gets to being an absolute monopoly. But the great difference between such a monopoly and a monopoly legally conferred, for instance by a patent, is, that in this case the possibility of its encountering new competition through the entrance of new firms is never quite excluded but remains always in the background. In fact, the more the cartel exploits its monopolistic position to exact high prices — and thus give a strong stimulus to new enterprises — the greater prospect there is of this latent competition becoming reality.

In spite of my attempts during the past thirty years to make clear the economic nature of competition, some wholly false ideas are still very prevalent, above all in legal studies on the subject.⁸

The true nature of the cartels, as of all monopolistic organizations, is determined by the *purpose* which their members follow. Whether an association can realize prices different from those which would obtain in a state of free competition is a

question for particular cases and often very difficult to decide at all. The purpose to control or influence the market makes the association into a cartel. And it is quite sufficient to speak of the *purpose of achieving monopolistic control*, since behind the concept of influence stands always control. General statements, such as that the cartels aim at 'regulating' purchasing, production or marketing in any given trade, are too vague. Regulation is only possible under an exchange constellation, a perfect system defined by economic science as a monopoly. A cartel may not even attempt to include all the undertakings in the given branch of trade, and yet we may still speak of the aim of monopolistic domination of the market even if only some of the buyers are exclusively dependent on the cartel firms. As I have explained in detail in my theoretical work,⁹ the notions 'competition' and 'monopoly' are not only applicable to one party to an exchange, but must always take account of the opposite party. A patentee has, it is true, a position of absolute monopoly, but he enjoys no sort of preferential position in the determination of prices and incomes, unless his wares are superior to those of others. The possibility therefore of producing monopolistic effects — which is the real point of importance in life — is always dependent on the situation on the opposite side.

Assuming then this monopolistic tendency to be the purpose of cartels, there is no need at all to include in the definition — as many authors have done — the desire to *increase profits*. 'For monopolistic tendency' means trying to get the most favourable position possible in exchange. Profit-making is of the essence of enterprise,¹⁰ as of 'all economic activities,' and there is no need to mention this specially in the case of the cartels, since cartels as such are not profit-earning concerns. They may be used not to increase the profits of their members but to prevent them falling below a certain level — a thing which may easily happen in open competition. Costs and profits remain, as we shall see, in the case of most of the cartels, a matter for the individual firm; and even though a firm usually — but not always — joins a cartel in the expectation of a rise in profits, yet the purpose of the cartel is not to be found in the economic activity of the firm as such, but in something external to the firm, the condition of the market, and the favourable adjustment of conditions governing supply and demand.

The monopolistic effects of a cartel can only make themselves felt provided the

majority of the competing firms come into the agreement. Experience has shown that normally about three-quarters of the firms concerned must participate, otherwise monopolistic action becomes impossible. This is not to be regarded as a strict rule, but is dependent entirely on the conditions in the particular branch of trade. It is this necessity of including, as far as possible, all firms concerned that distinguishes the cartels on the one hand from simple associations, trade or professional associations which attempt by *indirect* means merely, such as agitations, petitions and the like, to improve the economic situation in their particular trade or generally to further their common interests. They are to be distinguished also from the numerous non-monopolistic associations which regulate conditions of contract, fix standards and uniform specifications, carry out central purchasing of raw materials, or set up joint selling organizations or agencies, and so forth. Those are associations, because they regulate and control the economic activity of their members at certain points, but they are not monopolistic associations, or cartels, because they have no monopolistic purpose in view. Thus they have no need to include all the members of a particular branch of industry or trade, but may be formed by a number of such firms, e.g. where certain firms arrange among themselves for the joint purchase of raw materials, for a joint selling organization, for uniform conditions of contract, for standardization and uniform specifications. Cartels, on the contrary, restrict the economic freedom of their members in obedience to a common monopolistic purpose — take from them, that is to say, their right to fix their own prices, to produce or sell as they choose, etc., thus bringing about a common policy and a united front. But there may be intermediate forms between simple associations and monopolistic associations, just as there are between unions and associations, because different agreements covering different groups may be concluded within the same organization. This does not however affect the scientific necessity to distinguish between these three types; such a distinction rests on the difference between their economic effects. Thus even agreements as to conditions of contract may bear a monopolistic character, and in this case it is permissible to speak of ‘contract-cartels’ as far as they may complete the actual monopolistic (price) agreements, e.g., provisions as to rebates; or when the conditions of contract, as in banking, may be themselves prices.

The cartels, however, do not go as far as to take away completely the independence

of the individual firm, and are therefore to be distinguished from mergers — in which one firm is completely absorbed in another and the former owner loses his proprietary rights altogether. They differ in this respect from the *monopolistic amalgamations*, in which *all* or nearly all the firms in a particular branch of trade are brought into one concern, thus abolishing completely the economic independence of former individual undertakings. The special form of amalgamation known in America as the trust has precisely the same effect; of these we shall speak in detail later. In the case of the trust, too, the individual undertakings lose their independence and are completely absorbed in a single concern, a *corporation* or *company*. Amalgamations, mergers and trusts are not mere contractual unions, but *axe financial*, capitalistic unions, resting upon a basis of ownership. A financial amalgamation of several firms, so common to-day, is called — subject to certain qualifications to be discussed below — a *concern*; and a trust is therefore nothing more or less than a *monopolistic concern*. The trusts have many points of contact with the cartels, since the main thing about them too is their monopolistic purpose. They are thus to be regarded in many respects as a further stage in development of the cartels, and frequently produce the effects of these in a still more marked degree.

But there is a further limitation to be made. Cartels, strictly speaking, are only associations of producers offering their goods to the purchaser or consumer. The above expression ‘influencing or domination of the market’ means, in fact, nothing more or less than *domination of supply* (but this is not to be taken quantitatively, but quite generally in the sense of ‘willingness to sell’). Associations of firms to control purchases in their capacity as customers or buyers against the producers or against the workers, are not to be regarded as cartels. These organizations aim not at a sellers’ monopoly, but, on the contrary, at a buyers’ monopoly. The formation, however, of such buyers’ monopolies is generally far more difficult than that of a sellers’ monopoly, because the number of buyers is generally far larger than the number of sellers of a given product (‘Labour’ as a product is the most important exception to this rule). What generally results from such agreements is not really a monopoly, but merely a certain degree of co-operative union; for instance, factory owners have often come together to arrange for collective purchasing of coal, but have found themselves unable to put up a buyers’ monopoly to counter the sellers’

monopoly of the Coal Syndicate, and so have had to content themselves simply with the privileges granted to large-scale purchasing. Thus these 'buyers' associations,' as we may call them, have not the far-reaching effects upon the national economy which the sellers' monopolies may have; they may, however, serve as a means of defence for the buyers, and are of great economic importance from this point of view. To this class belong all cooperative unions of consumers, purchasing and wholesale. Co-operatives, which, while not possessing a complete monopoly, yet sometimes concentrate in themselves, through the association of a large number of buyers, such a large part of the demand, that even a sellers' monopoly has to reckon with them. But we shall not extend the term cartel to cover all these purchasing associations, because they must be assessed on a different economic basis.

The same is true of those associations of employers which are directed against labour, the Employers' or Anti-strike Associations. Here too the firms act not in their capacity as *sellers of commodities* but as *purchasers of labour*. All such organizations must be judged differently, and in fact have quite other economic effects from those which are associated with a *sellers'* monopoly. If we were to call *both* cartels, we should be obliged to speak in each case of producers' or consumers' cartels, since it would hardly be possible to make any statement which would apply to both, so completely do they differ in their causes and in their effects. It is therefore wise to restrict the term 'cartels' to associations of producers. In the slipshod language of everyday, and even unfortunately in scientific writings, this distinction is often not observed, and false or misleading conceptions are the result. It might possibly be permissible to speak of 'consumers' cartels,' but 'cartels' must always be taken to mean associations of producers.

Normally cartels are conceived as being agreements between firms i.e., between large-scale profit-earning units. They are associations of firms with a monopolistic purpose. But just as it is difficult to draw the line between industry and handicraft, between the industrial firm and the small tradesman, so it is with the associations. Still, in production, the difference in the amount of capital required for a large-scale undertaking is important, and plays, as we shall see (Chap. III), a part in the formation of cartels. In small industries the actual work of the owner plays a larger part in the organization regarded as a whole, even where it is a case of selling

products and not performing services. In consequence, too, of their purely local character associations of small tradesmen frequently take quite different forms as well as their effects and are restricted to a much smaller field. It is this fact which determines the possibilities and the problems of State regulation within such trades. It is therefore advisable to restrict the term 'cartel' to the monopolistic *larger* profit-earning units, supplying more than local requirements. It is, however, quite true that the line which separates associations of firms from those of smaller trading units is a fluid one, especially in commerce.

On the other hand, there is a fairly sharp line separating these combinations from combinations of individuals, who sell their personal services. One might of course speak of cartels of doctors, lawyers, musicians, artistes, authors, etc., since in all these branches there are agreements aiming at influencing the supply in a monopolistic sense. These consist above all in agreed scales of wages and salaries, with an obligation not to supply any services under the standard rates. There are also, as is well known, numerous trades which stand in an undefined position between personal services, supply of materials and the selling of goods — from the hairdressers, hotel and inn keepers and plumbers, up to the theatres and the transport agencies. But, generally speaking, the term cartel is to be confined to those who are *producers* or entrepreneurs, i.e., those who either offer for sale goods requiring considerable capital, or money services or material services also requiring considerable capital investment.¹¹

Above all, the term cartel is not to be taken to include the wage-agreements of labour. Such agreements form the basis of *Trade Unions*, and these may be either mere unions serving the general interests of their members, or *associations* binding their members to do or refrain from doing certain things, or finally they may be *monopolistic associations* aiming at direct intervention in wage matters — in which case they must do everything possible to get all the workers concerned included in the agreements.

For all associations, which for the foregoing reasons are not to be accounted cartels, it is best to use the more general term 'combination' or 'convention.' It is not convenient to use the word cartel in a more general sense, as it would then be necessary to state in each case whether one is referring to cartels of entrepreneurs as

producers or as consumers, or of undertakers *qua* buyers, to cartels of handworkers or cartels of labour, etc.

As regards the distinction between cartels and *co-operative societies*, it would naturally be going too far to assert that all cartels are a kind of co-operative society. For not every association for furthering the common interests of its members is a co-operative society. On the contrary, co-operatives, are as we saw,¹² one form of joint enterprise, whereas cartels spring from mere agreements between producers. There are however some forms of cartels, as we shall see in Chapter V, which take over from their members a portion of their economic activities — usually the individual selling of their products, and transfer this to a common selling organization. This *is* a selling co-operative, even if it does not take the legal form of one — a matter of no importance from the economic standpoint. It is a selling co-operative based on an association, in fact, a *co-operative with a monopolistic purpose*. In the same way any activity aiming at the common purchase of raw materials or goods for individual firms is a buying co-operative. And when it includes all the competing buyers, and excludes competition, then it is a buyers' co-operative with a monopolistic purpose. Cartels and co-operative societies have in common the fact that they are formations destined to further the economic activities of several enterprises by means of combined effort, and they coincide in the case where such combination leads to the formation in common of some special organization which has branched off the organizations of individual members.

A question much discussed in recent times is whether organizations which have not originated voluntarily but have been created compulsorily by the State are yet to be regarded as cartels (*Statutory Compulsory cartels*). The kind of compulsion leading to these formations may, however, be very different, as was seen in the War. One can only speak of cartels — a word derived from *charta*, 'contract' — where the association has been entered into through an agreement which has its basis in private law, but not of combinations of a public nature determined by statute. But there may be intermediate stages. If, for example, price-agreements are linked on to a guild, a matter forbidden by factory regulations but which occurs very often nevertheless, one can see here a cartel. Cartels are voluntary contractual agreements with a monopolistic purpose, even though the basis of the original combination is not a

contractual one. In the same way I consider the term 'compulsory cartel' applicable where the State, by threatening a public and compulsory organization of the trade, prevents the dissolution of a cartel, as was the case with the Potash Syndicate in 1910; or where it intends in the same way to secure the organization of an industry, but leaves the form that organization shall take more or less to private initiative. On the other hand, no cartel exists where a *public corporation* — a totally different thing from voluntary trade associations — is formed, as was so often the case during the War.¹³

Finally, it must be emphasized that when we, as economists, consider the monopolistic aims and effects of the cartels, and determine their position within the entire mechanism of *exchange* on this basis, we place less importance on their inner structure. The problems involved in the latter, the relationship between the members of a cartel, are more a matter for sociology, whereas the science of jurisprudence has to take account of both sides, the relationship of the members within the cartel and its influence on the mechanism of exchange.

Chapter III: The Origin Of Cartels.

At all times and in every stage of trade exchange there have been monopolistic agreements between sellers. As cartels, however, they are a modern phenomenon, arising out of the conditions of modern economic life. The only monopolistic organizations known to ancient and medieval times took the form of the so-called '*corners*' and '*rings*' with which we too are familiar to-day. A corner is created by buying up, as far as possible, all the goods available on a given market with a view to monopolizing them. Thus, in ancient times, frequent attempts were made to buy up all the corn supplies on a market and so get a monopoly and fix the selling prices to suit. Such attempts were also common in the Middle Ages. We often hear of the merchant princes of Augsburg, Nuremberg, or Cologne making corners, and of legislation being directed against this practice in quite early times. A corner, however, is not an association, but a trade manoeuvre which may be attempted by a single merchant.

By a '*ring*' we shall understand an association of several persons with a view to forming a corner in conjunction — though of course in popular language the word is often used as equivalent to cartel. Thus a ring is not an agreement between independent entrepreneurs, but is a *joint enterprise* carrying out business in common. It aims, through the holding up of all available goods, at causing a scarcity and hence an increase of price, so that it can unload at the higher price and make a profit. A ring is thus a highly speculative enterprise, and has nothing whatever to do with regulation of price, production and supply, which is the function of the cartels. The concentration of the entire stocks of a commodity in a single hand and the

withdrawal of them from the market is utterly at variance with the object of trade, which is the *distribution* of goods. Further, since the ring can only gain control of the entire volume of goods by outbidding all the other buyers and paying the producers the highest prices demanded, and since, in addition, it must make very high profits upon these high prices to compensate it for the very great risk it runs, it invariably makes the goods extremely expensive for the consumer. For all these reasons corners and rings are to be regarded with very great disfavour. In recent times they are less common than they used to be, or at least they are more rarely successful. With the development of modern transport, which makes competition by the most distant producers and merchants possible, such an attempt at monopoly by cornering has to take account of all the supplies on all the markets of the globe, whereas formerly with inferior means of transport it was possible to be safe against competition even in small areas. It is however clear that during the War, with the general scarcity of commodities and the more rigorous delimitation of national economic activities, cornering again became easier, and ephemeral companies were formed here and there locally to buy up goods and create a scarcity.

But though voluntary monopolistic associations in the form of cartels were unknown either to the ancient or to the medieval world, still there were in the Middle Ages organizations which in their actions resembled them very closely, namely the *Guilds*. These, however, were not voluntary but *State-regulated* associations, and they were not created to establish a monopoly position, but with a view to improving the status and furthering the social interests of their members. In order to carry out this task they then received from the authorities the right of exclusive trading. The sole point of similarity between the guilds and the cartels lies therefore in the elimination of competition, in their monopolistic action. But, in the case of the guilds, this position of monopoly was assigned by the State and realized largely by compulsion, whereas, in the case of the cartels, it is the result of the voluntary combination of the interested parties. Besides which, the whole situation out of which the guilds arose differed totally from that which has given birth to the cartels. In the Middle Ages the characteristic form of industry was Handicraft — small-scale production, mostly in the form of hired craftsmen working for a local market and with little capital. The guild organization aimed primarily at ensuring for every

member of the trade a standard of living appropriate to his status. In the cartels, on the other hand, we have modern organizations with large capital — and the hope of lessening capital risk is, as we shall see, one of the principal motives which induces firms to form cartels. Thus even the modern combinations of artisans differ considerably from the cartels in respect of their origin. It is true that now compulsory membership of the guild has been abolished they too are voluntary associations, but their members are not subject to the severe capital risks resulting from huge mechanical productive capacity and manufacture for stock which in large-scale manufacture compels the continuous running of the works, and, in this way, intensifies the fierce competitive struggle and the perpetual undercutting of prices. Artisans working locally, on the other hand, count on getting traditional prices, which do not easily alter even when competition increases. They suffer from the modern overcrowding of industry, but not from great fluctuations of price, since economic crises play a less important part in small-scale production. In addition, the forms of association among artisans often differ from those of manufacturers, especially since the recent guild legislation (*Innungsgesetzgebung*)¹⁴ which has made monopolistic combination among artisans much easier. But as far as their effects are concerned, there is no great difference between monopolistic combinations in large-scale and in small-scale production, except that the latter tend to be restricted to a locality. For the ultimate consumer, the numberless monopolistic combinations of artisans and small tradesmen are probably just as disadvantageous as those of the big manufacturers.

Though the guild constitution of the medieval artisans does not justify us in speaking of cartels in the Middle Ages, still here and there in trades which were not organized in guilds we do find agreements among the producers to which the term cartel might be applied. Thus in the fourteenth, fifteenth, and sixteenth centuries we find price-agreements of the cartel type concluded in various localities, especially in mining and in mineral-ores, such as copper, tin and mercury, also between salt works and alum works; and in the eighteenth century too they are quite common in the industries created by mercantilism, such as copper, salt, glass, porcelain, cloth, and bedding industries.¹⁵

But these cartels of former centuries have no historical connexion with the modern

cartel movement. For in the meantime the principle of open competition had become accepted everywhere, and the cartel movement of the present day is a reaction against this principle. In spite of the short period of time during which open competition has been really in operation, it had become so much the custom, even in science, to regard it as the sole regulator of exchange that the exclusion of this factor through the operation of the cartels was felt as something utterly new and unknown. And from this standpoint, the cartel movement taken as a whole, as a means of defence against excessive competition, is in fact quite a modern phenomenon. Thus when towards the end of the seventies a few cartels came into the public eye for the first time, conception and reality were completely unknown.¹⁶ Thus in the short space of a single generation these associations have developed from very small beginnings into one of the most significant factors in modern economic life. In economic development, which is accustomed to much longer periods, a rapid expansion of this kind was something so unexpected, that it seems only natural to conclude that the cartels must have causes deeply rooted in the nature of the modern economic system, so that they were bound to make their appearance when they did. We shall now attempt to trace these causes.

The fundamental cause of the formation of cartels lies in the growth of large-scale enterprise. This again is the result of the great technical achievements, which, beginning in the second half of the eighteenth century, have set their stamp upon the nineteenth century. The invention of machinery of all kinds led to *mass-production*; improvement in transport, especially since the advent of the railways and the steamship, made *mass-marketing* possible. But the large-scale enterprise that was thus being developed required quite a different mechanism of exchange from that of artisan-production. The artisan only came — and indeed only comes — into operation when some one gives him an order, and he often, especially in earlier times, used even to receive the raw material he would require from his customer in advance (working up for the customer). But the large-scale plant, using machinery and designed for mass-production, cannot afford to wait till some one comes and orders something, and then carry out each customer's order in turn; it has to make sure of keeping its machines going all the time, so as to get full advantage out of them, and must therefore work for stock (*production for a market*).

From all this there results the *risk* which is peculiar to the modern capitalist enterprise designed for mass-production. The entrepreneur runs a double risk of losing his capital: In the first place he runs the risk of not being able to keep his plant in continuous and economic operation, i.e., he risks *fixed capital*. But secondly, when he has once started manufacture, he is not sure of being able to find a customer for his products; he risks losing his *working capital*. The risk involved in fixed capital is generally greater.

Now as long as mass-production was still in its infancy, the rewards of enterprise were, generally speaking, very favourable, since production was almost invariably cheaper than antiquated hand-work. In one trade after another handicraft had to yield to large-scale manufacture. But directly there came to be a large number of producers in the same trade, the situation became more difficult, the more so the faster the new technical inventions and improvements followed on each other. By the use of the most up-to-date machinery and improvements, every new firm that set up might be superior to those already in business, and every one kept trying by cheaper production and cheaper prices to secure for himself a steady market. The older producers used the profits they had earned in former years to realize the newest improvements themselves, the capital sunk in the enterprise grew larger and larger, and competition in the same trade grew fiercer and fiercer. This *intensification of competition* is a universal phenomenon of modern economy, and it is this above all which has led to the formation of cartels. This intensification of competition is therefore the result of the tremendous growth of technique and invention, in consequence of which the costs of production are continually reduced and the producers using the newest methods keep on getting ahead of the others. It is further the result of continual extension of transport and communications, leading to the expansion of markets and bringing them into conflict with a continually growing circle of other producers. It is, finally, a consequence of the enormous increase in capital wealth, and perhaps still more of the increasing *mobility* of capital (*joint stock capitalism*), in the more highly developed countries, of the new facilities for founding new companies and the greatly increased love of enterprise.

This intensified competition had the most unfavourable consequences for all entrepreneurs. On the one hand their capital risk kept increasing, on the other their

profits kept falling. This went on till finally they came to consider their profits as no longer adequate compensation for the increased capital risk. As soon as this view was current in a given trade, and it began to be realized that common agreements might improve the situation, the moment for the cartel had come. Subjectively, from the point of view of the producer's efforts alone, one may term the cartels as the *product of the growing divergence between capital-risk and profit*. From the standpoint of private enterprise this may be taken as a factor making for the creation of cartels, while general economic phenomena, active behind those motives and instrumental in bringing them into being, growing competition and the unfavourable situation resulting from it, afford us an explanation of the formation of cartels from the standpoint of national economy.

It was only natural that the first attempts to form cartels in any given branch of manufacture made their appearance at moments when competition had reached its fiercest point and the resulting situation had become unfavourable in the highest degree. At first each entrepreneur naturally supposed he could secure business and a market by cutting his prices, and make up for his lower prices by producing on the largest possible scale, on the principle of small profits and big sales. But as everybody was thinking the same thing, over-production became worse and worse, prices went lower and lower, and the weakest enterprises collapsed, till finally those remaining had the happy idea of putting an end to all this by agreement. Thus out of the most extreme competition there developed its very opposite, namely, monopoly. Competition thus spontaneously generated its opposite; 'competition kills competition,' just as the Socialist Proudhon had described it in the forties of last century; It is highly interesting to observe how, in one industry after another, this transformation from extreme individualism — from the absolute isolation of the single enterprise — to a condition of more and more solidly organized associations, has been gradually taking place.

But how was it that the entrepreneurs suddenly had the idea of giving up their isolation and entering into such hard and fast mutual obligations? One of the circumstances that contributed notably to this result was that the competitors in the same branch of trade were already frequently associated in those professional or technical associations (Fachvereine), which we distinguished from the cartels. In

these associations, which are, generally speaking, older than the cartels, the members of a trade originally came together for the defence of their common interests, and, in the course of some common agitation for transport concessions, tariffs and the like, they would naturally come to speak of the trade situation and possible means of improving it. This was the first step to an understanding, and the first attempts to form a cartel in an industry have very frequently been made at such meetings. Even to-day, many cartels are still at the stage of being occasional agreements made at periodical meetings. And the professional associations formed to deal with accident insurance have had the same effect as technical associations, in effecting combinations.

As has been already said, there had already been in former centuries a few formations of the cartel type, both in Germany and elsewhere, and now that attention has been turned towards them, more and more of such creations are coming to light. Thus it has recently been ascertained that there is in Germany a cartel over a hundred years old, the Neckar Salt Union, which was formed in 1828, between the salt mines of the States of Wurttemberg and Baden, and the Hessian private salt mine at Ludwigshalle (since 1821 a joint stock company). This cartel has only once altered its statutes — in the year 1869 (on the abolition of the salt monopoly)! In the years 1836–44 there was a cartel between the four Prussian alum works, two of which were private undertakings while two belonged to the Prussian state. And at the same time — early and middle forties — the Oberlahnstein Association for the sale of Nassau pig-iron came into being. Probably in 1854, and certainly after the still valid 1869 agreement, a proper syndicate arose from this association.¹⁷ A few German cartels, covering salt, bismuth and tinplate, go back to the sixties. But all these older cartels are merely the result of special competitive conditions in their particular trade — not, like the present-day cartels, the consequence of reaction pervading the whole economic system against open competition as a general principle regulating trade. The first *epoch* in the cartel movement in Germany falls in the time of the ‘big crash,’ the deep economic depression in the middle of the seventies. It is in this period that the great combinations in the coal, iron, paper and potash industries, and in many other industries also, have their origin.

The formation of cartels was facilitated by the beginning of the protectionist era

in 1879. The effect of tariffs on cartels has been often exaggerated. Even to-day you may often hear it said that, without tariffs, there can be few or no cartels. It is true that a large number of associations originated in the years immediately following the introduction of the protective tariff — e.g., eighteen in the iron industry alone. But it is not correct to say that these combines were founded simply to take full advantage of the tariff. They are rather to be regarded as the belated effects of the great crisis, which produced a fierce competitive struggle lasting several years until finally in a few industries the ground was prepared for combination. It was not simply to exploit the protective tariff that producers eliminated competition in their own ranks, but they desired protective tariffs as well as agreement in order to make violent competition, the cause of economic distress, impossible — the former, to free themselves from foreign competition, the latter to hinder blind internecine struggles among themselves. Thus protective tariffs are — at least originally — not a cause of the formation of cartels but a *means* to render them possible. Entrepreneurs soon recognized that tariffs can do little to improve the situation in an industry so long as unrestricted competition continues within the national frontier. To eliminate this, only self-help can be effective. The protective tariff of 1879 was only indirectly the cause of the formation of cartels even where, as for instance in the soap and explosive industries, it enhanced the price of raw materials, and forced producers to raise their prices by agreement to correspond to the prices of the raw materials.

In general, as subsequent development has shown more and more clearly, it has been shown that entrepreneurs can, by means of agreements, forestall unfavourable economic conditions. When once the cartel system had become widely disseminated and examples of several branches of industry organized in cartels for some considerable time were available, entrepreneurs did not wait for things to become really critical during times of depression but did their best to prevent excessive competition, trade depression and economic crises. When the prices of raw materials rose, either in consequence of a cartel among the producers or through other circumstances, the finishing or consuming industries gradually began to make up for their own reduced profits by means of price-agreement. Many cartels have been formed in this way. Thus in the further course of development the cartels, from having been instruments of defence against unfavourable trade conditions, have

aimed more and more at prevention and at protection. This is one of their principal functions to-day.

But the development went further. It was soon recognized that even in depression the cartels could be of great advantage to industrialists. Where free competition reigns the individual firm is often afraid, even when times are good, to put up his prices to correspond with the enhanced demand; he is afraid that the competitors may not follow him and he lose his market. Cartels, on the other hand, enable the firms to put up their prices *at once* to correspond with increasing demand, with the result that the tendency to form cartels is extremely strong not merely in times of depression but also in times of prosperity. This was evident during the years of expansion 1888–90, in the boom period of 1895–1900, and in the favourable cycles of 1904–07 and 1910–13, even in the years 1926–8.

Finally, it is to be remarked that periods of speculation and of steep price-rises also normally excite the formation of cartels, since at such times industrialists do their best to damp down competition and adjust their selling prices as quickly as possible to the rising prices of raw materials and wages. In the years immediately following the War, the attempt to adjust prices as quickly as possible to the falling value of the mark and shut out competition, led to a great extension of the cartel movement — even though at times, for reasons which we shall go into presently, other forms of organization showed up more prominently. In any case, the cartels are organizations which have become a permanent feature in the present-day economic system; their importance for our economic life is certainly not yet on the wane, perhaps it has not even reached its zenith.

Chapter IV: Scope Of The Cartels In Germany.

The main field of the cartels is that of large-scale manufacture, including mining. Transport also lends itself very well to the formation of cartels: where only a few big companies are in competition with each other, as is the case of countries with privately owned railway systems, and with the steamship companies, rate-fixing cartels are extremely likely to occur, and these are among the oldest forms of monopolistic combination. In Germany railway cartels have naturally played a very small part, but there has been a number of cartels of shipping companies. Cartels have often been formed between the companies interested in ocean traffic with foreign participation — the so-called ‘Shipping Pools.’¹⁸

The number of *industrial* cartels in Germany is very large. An inquiry undertaken in 1905 by the Ministry of the Interior established 385 associations, but the number given for the chemical industry — 46 associations — was by no means complete. In the chemical trade many hundreds of products have been the subject of agreements, and many big chemical works are members of dozens of cartels. Many of these, however, are quite loose groups, which frequently break down and then after a period of competition come together again; whereas others possess a firm structure and have been long in being, as for instance the bismuth cartel. In the iron and steel industry too there are hundreds of cartel-controlled articles. Here it has often been remarked that the cartels covering finished products only come into being as the result of previous monopolization of raw and auxiliary materials, and of the semi-finished products. The cartel structure of the iron and steel industry particularly is in the full flood of development, and presents an example of advanced organization.

The great *Steel Works Association* (Stahlwerksverband) was here the first attempt to bring together a whole series of different products in one *general* cartel, with central control. To-day, in addition to the various pig-iron associations, there are the *German Steel Ingot Syndicate* (Deutsche Rohstahlgemeinschaft) which apportions the production of some 12 million tons of raw steel and is a member of the International Steel Ingot Syndicate;¹⁹ the *Steel Works Association*, which includes among its so-called 'A' products, semi-products, railway constructional material and shapes, and among its 'B' products, bar-iron, heavy plates, hoops and strips, for all of which there are also special cartels. The tube and rolled-wire associations hold an independent position. Thus from the ore — there are also iron-stone cartels — to rolled wire, iron and steel is the object of four main cartels. Then below the rolled-wire cartel there is the wire-rope association, and below it again the wire-cable association and numerous other cartels for special wire products. Thus the National Federation of Quadrangular Wire-netting Works, which is a loose price-convention, includes over 200 members. In addition to this, there is a more closely-knit cartel covering the bigger firms, and a syndicate embracing the biggest of all, concerned with exportation. Hexagonal wire-netting, on the other hand, is only made by about a dozen biggish firms, and these have a firm syndicate, which — with a few interruptions — is one of the oldest in the whole industry.

In order to give a picture of the range of the cartels for finished products in the iron and steel industry, it may be mentioned that the Union of German Engineering Firms (Verein deutscher Maschinenbauanstalten) included at the end of 1923 137 associations with 1,203 members, at the end of 1924 108 associations with 1,160 members. Seventeen associations had been dissolved or suspended, nine amalgamated with other associations, two had been newly formed, among them the Association of German Boiler Makers, with six associations subordinate to it. The management of all these associations rested in the hands of forty-nine 'directors.'

The coal-mining cartels are also of great importance for the iron and steel industry, and of these the *Rhenish-Westphalian Coal Syndicate* (Rheinisch-Westfälisches Kohlsyndikat) above all, which has absorbed the Coke Syndicate and the Briquette Marketing Union, and is of great significance for the public as a whole. In addition, the brown coal mines in all the German fields are also organized in cartels.

The production and manufacture of all the *non-ferrous metals* is almost completely under cartel control, for instance, the zinc, copper, brass, nickel, lead and aluminium industries. In the metal industries we everywhere find cartels covering not only the extraction of the ore, but also the manufacture of the half-finished products (rolling mills) and finished products.

In the *pottery and allied*, industries the *brick and tile* cartels are the commonest, but the majority of these are rather local in character. In cement, glass and pottery, on the other hand, numerous closely-knit regional associations have been formed, which stand in more or less close relations with one another.

There are also cartels of considerable importance in the *paper* and *wood* industries.

In the *textile* industries cartels were for a long time relatively unimportant. Their formation was rendered difficult by the great variety of products, also by the large number of producers, owning often small and medium-sized mills. But this has been greatly altered since shortly before the War, and nowhere has the cartel movement made more progress in recent times than in the textile industry. The unfavourable economic situation in many branches of the industry has gradually overcome the original difficulties — above all, the dependence of firms on merchants and wholesalers — which were avoided by means of cartels. Owing to the character of the industry firmly-established syndicates were rare; they usually contented themselves with price-fixing and production cartels. Here however great importance attached to the *cartels dealing with conditions of contract*, agreements which have monopolistic action, only in conjunction with price-fixing, since in themselves they are nothing more than attempts to improve the general conditions of trading for their members. Such improvements in the terms of payment, the elimination of excessively long credits and the like, were of far greater importance to the producers than the temporary realization of better prices. It seems, however, that the action of these cartels in changing conditions of payment, etc., was sometimes too sudden or too violent, in any case the buyers of many of their products, and the merchants in particular, formed associations in their turn, and the German textile industry is to-day the scene of an organized struggle between groups representing different interests hardly paralleled elsewhere.

In the *foodstuff* industries the number of cartels is not considerable, apart from the

old-established salt associations and the numerous local brewery unions. These latter, as in the textile industry, are largely agreements relating to conditions of contract such as terms of payment, bottle-deposits, the regulation of the bottled-beer trade in general and so on. The customer's protection clause plays a big part here (vide below), an obligation undertaken by one brewery not to entice customers away from another, and to pay a fine in compensation in case a customer voluntarily changes his brewery.

Cartel development has been least in *agriculture*. Only in the sugar and distilling industries have large cartel formations taken place. These were greatly facilitated by taxation, which allocated a certain production quota to each factory and thus provided the basis for further measures to eliminate competition. But, otherwise, the conditions which obtain in agriculture are not favourable to cartels. The large number of individual farms, the scattered nature of size and type and location, render the formation of cartels difficult. Further, agricultural producers normally offer for sale not a single product but an interlinked series of products, so that the same farms are not regularly in competition with one another. In spite of all this, unfavourable agricultural conditions have led to many attempts being made to secure by combination better marketing conditions. The remarkable development of agricultural co-operation has often brought into being organizations with certain monopolistic traits, where, for instance, farmers who hold a predominant position in the supply of a certain market unite to form selling co-operatives. Even though such societies serve primarily to eliminate the middleman and transfer his profits to their members, still here and there — for instance, in the case of the Berlin Central Milk Agency — organizations have established themselves on a thoroughly monopolistic basis.

These monopolistic coalitions of producers have naturally often led to a restriction of the middlemen's opportunities and a diminution of their profits. They in their turn have then tried to defend themselves by means of cartel agreements, and the general tendency of the cartel movement to spread is shown by the fact that when the producers form a cartel and put up their prices, the dealers too give up competition and follow their example in fixing prices. Generally speaking, however, commerce is not such a suitable field for the formation of solid and lasting cartels as production.

Since the capital invested in commerce is primarily circulating capital, a cartel of merchants is liable to be threatened by fresh competition springing up far sooner than is a cartel of producers. If on one day the dealers agree to put up their prices, they may find that by the next day others have taken up their branch of trade, and are underbidding them and capturing the whole of their market. If the cartel is finally dissolved, the new competitors can without loss give up trading in the given line of goods. This is true above all for retail trade, whereas wholesale trade is better secured against the advent of fresh competitors by its large capital requirements and its closer connexion with the producers. We shall discuss later in detail cartels in commerce and their relationship to the producers.

If production is most favourable for the formation of cartels — or if, as perhaps we should say, the necessity for cartels is here felt most acutely — there are very great differences between the different branches of manufacture in this respect. There is still not much that can be said as to the general suitability of a particular product for cartel agreement or regulation. Only one thing is certain, that those products are least suitable which are subject to the influence of fashion or the changing tastes of the public, which require artistic skill for their production, largely involve the use of individual patterns or models, or are notable for a certain goodwill on the part of individual firms. Still there are already cartels for such products as electric lamps, pianos, games, albums, picture postcards, mostly, however, for the inferior qualities; in other cases, furniture for instance, they have broken down. Even in the case of high-quality goods it is not impossible to form cartels, provided they succeed in reserving to certain members the manufacture of their specialities, or, as in porcelain and in some branches of the textile industry, they are confined to agreements covering defectives, etc.

In general we may say that mass-produced goods, subject to few quality differences, are the most suitable subjects for cartel agreements, at least as far as the more closely-knit form of cartel, the syndicates, are concerned. It is well to distinguish between industries as they are brought into relationship with the type of enterprise, marketing conditions and similar matters, and as they lend themselves to or require organization in cartels. It may here be observed that the industries which most fully required organization in cartels were those where the ratio of *fixed capital*,

invested in the works and extremely difficult of realization, to the value of product was highest. That is above all the case with the so-called heavy industries, which, with a vast outlay on plant and equipment, manufacture out of relatively valueless material products which themselves are of little value and which must therefore be mass-produced. This is especially true of the iron and steel industry, which is consequently, in every country, a main centre of monopolistic organizations. Those branches of trade are evidently less suited for cartel organization in which the number of competing firms is very great. One must not, however, reckon with the absolute number of firms within the whole country, but make allowance for those cases where particular conditions, such as transport costs, have rendered possible local or regional delimitation.

In actual fact the goods, subject in Germany to cartel control, are extraordinarily various. Raw materials such as are found in huge quantities, ironstone, limestone and salt, and very rare ones, such as bismuth, or the rare earths used in the manufacture of gas mantles, all come into this category. Not merely products whose employment is almost universal, like coal, sugar, paper or matches, but equally specialities such as busts for shop-window decoration, cedar-wood veneers, numberless chemical specialities, feather dusters and lamp polishers, and hair-cutting machines, have all given rise to cartels. Cartels have been formed both for trifling objects like pins, wire nails, push-buttons and the like, and for complete railway trucks and locomotives; both for products which are manufactured by hundreds of firms throughout Germany, such as sugar, cement and soap, and for numerous pharmaceutical preparations made by only a few factories, for bicycle lamps and chains, for tear-off calendars, artificial palm-trees, merry-go-rounds, lamp-shades, corset supports, roller skates and many other articles. There is not merely a cartel for toilet paper, but also a special one for 'craped' toilet paper.

All in all, the commodities for which cartels have been formed in Germany, amount to well over 1,000. The number of the cartels existing to-day, if all the local combinations are counted in, would come to several thousands. In 1923 the number of industrial cartels was estimated at about 1,500. The National Federation of German Industries gave the following list showing the distribution of them among the various groups of trades which it recognizes:²⁰

Mining	51
Iron and Steel	73
Smelting and Semi-Finishing of Metals	17
Engineering	147
Boilermaking and Allied Trades	48
Railway Carriages and Waggons	1
Automobile and Cycle Industry	8
Iron and Steel Goods	234
Electrical Manufacture, Scientific and Optical Instruments	56
Hardware	78
Wood	44
Leather	46
Stones and Earths	30
Building Trades	37
Ceramic Industries	10
Glass	20
Chemicals	91
Oils and Fats	36
Paper	107
Textiles	201
Clothing	71
Brewing, Malting and Milling	97
Sugar and Foodstuffs	24
Confectionery, etc.	49
Shipping and Transport Agencies.	4

Of these cartels 300 are thought to have been dissolved again by 1925.

The Government, on the other hand, in the middle of 1925 put the total number of cartels at about 3,000, with 2,500 in industry, 400 in wholesale and about 150 in retail trade. The central organization of the wholesalers, however, declared that on the contrary there were only 30 to 35 cartels in their sphere.

Evidently the term cartel is taken in very different senses in these estimates. The

number of 2,500 industrial cartels is probably about right, if the associations governing conditions of contract are included. But if one were to count all the local agreements which exist in the professional services, in handicrafts and in small trades, which are to be found attached to almost all guilds and Chambers of Commerce in every town, one would arrive at far higher figures even than these. Any one may observe, for instance, how in every town the hairdressers have agreed on an exact tariff for their services; or, to take the case of a trade which is established on a thoroughly capitalistic basis, we find, in the hotel industry, several dozen — counting local agreements perhaps over 100 — regular cartels, by which the hotel-keepers of a town or of a large district, like the Black Forest, assign to every hotel in a particular group exactly determined prices and tariffs. Linked up with the latter are numerous agreements governing conditions of service to the public, such as the granting of *en pension* terms only after five days' stay, counting the day of arrival, charges for breakfast, etc. Such agreements among the service trades bind the individual entrepreneur just as much as sellers of goods; the public is just as much affected by them, and it would be therefore quite incorrect not to count them as cartels.

Chapter V: Forms Of Cartel Organization.

The variety of forms adopted by entrepreneurs in organizing themselves as a monopoly against their consumers is very great. It has often been the practice to enumerate different forms quite unsystematically. But a *systematic* classification must be based on forms fundamental to the mechanism of exchange; according to this, one can distinguish three main forms of association which, as applied to cartels, may be most fitly termed *Regional or Zone, Price-Fixing, and Production Cartels*. The first and most obvious step for firms that have hitherto been in competition is to guarantee or reserve to each other a certain market or region or else certain definite customers, so that every one may have a complete monopoly within its area. This is brought about through regional cartels, usually, however, only in the form of a number of groups in the same region delimiting their areas of supply. International cartels in particular often aim at making such a zoning of markets, whereby producers guarantee not to sell within the territory of other producers. A mutual guarantee extending to every customer is involved in the so-called 'customer protection' system, by which, notably, the breweries undertake not to entice away each other's customers by offering them cheaper beer or any other advantages, and to pay a fine if any of their clients voluntarily change over to another brewery.

But cartels enable firms to enjoy monopolistic advantages without any such territorial delimitation; first, through agreements as to *prices*, and second, through arrangements as to *production* quotas and conditions. The former is naturally most desired when it is a question of increasing profits which have been beaten down in the course of competition. For this reason, price-cartels are the commonest, and they

are also the easiest to arrange. Often, however, competition has led to serious over-production, dealers and consumers have supplied themselves with goods for a long time ahead, and a price-agreement is hardly feasible. In this case regulation of production must be made, involving closing of works and establishment of quotas, regulation through production cartels. These are particularly common in the textile industry, where it is agreed that the work shall be confined to certain hours or certain days of the week, or a certain number of looms or of spindles or other machines shall be put out of action for a certain length of time. Or else it is merely arranged to what percentage of production for a former given period the members must restrict their production for the ensuing period. All this does not amount to an *allotment* or quota fixing (vide *infra*), as Tschiersky asserts;²¹ this procedure only begins when, as may also occur, the works of some of the members are entirely closed down for a time; the compensation paid for this must generally be distributed among the other members by means of an assessment based on production quotas.

All three forms of agreement naturally require careful control to ensure effective operation. The cartels generally appoint confidential officials who inspect the works and often the books, etc., as well. Heavy fines are usually determined for breaches of the agreement, and to provide for them promissory notes are deposited. The only organ which such a cartel positively requires is the general assembly. Frequently, however, even with these loose forms of cartel, special representative organs are appointed, such as Supervisory Committees, delegates of the cartel to other cartels and 'the like. Or if the number of members is large, many details may be decided by special commissions and committees of investigation. Advisory councils of different types occur; very frequently to-day, where, partly voluntarily, partly through State compulsion, provision is made for the inclusion of representatives of consumers, suppliers of raw materials and labour.

In addition to these three forms of cartel — the Regional Cartels, the Price Fixing Cartels and the Production Cartels — we may distinguish a more primitive and a more advanced stage. The former consists, as has been described, in a simple *restriction* of the individual firm in respect of market, prices or productive activity. At the more advanced stage we find a *distribution* among the members of the total supply, or of the total demand, or of the total profits; in this case it is customary to

speak of *Distribution Cartels*. Unlike the cartels at the lower stage, which consist in simple contracts between the individual firms, the distribution cartel ordinarily possesses a special organ with economic functions of its own, usually a Sales Office or Syndicate, to look after distribution. This organ often takes to-day the form of a separate company, a public company (A.G.) or a limited liability company (G.m.b.H.), but its functions may also be transferred to private individuals, commercial houses or banks; it naturally requires considerable administrative machinery and, through this fact, presupposes a firm structure in the association.²² Such firmly-knit cartels tend, therefore, to develop by slow degrees out of more elementary cartels.

The more elementary type of cartel is to be found in that which deals with the distribution of orders. Here the market is not divided up territorially, but all orders have to be notified to a central office, the so-called sales-syndicate, and are then allotted to the individual members in accordance with their quota as previously determined. This form of cartel is particularly suitable for mass-produced goods, which differ little in quality and are not liable to the exercise on the part of the customer of preference for certain firms. It is to this form of cartel that most of the associations in the coal-mining, iron and steel industries belong. The Rhenish-Westphalian Coal Syndicate at Essen, and the Steel Works Association at Diisseldorf are nothing more than the Sales Offices of the associations of mineowners or of ironmasters. The cartel, properly speaking, consists simply in their undertaking to sell their whole production through these organizations only. Other industries too have organized numerous cartels on the same lines, which have proved to be the most suitable for closely-knit associations.

To the simpler production cartels correspond market-quota agreements, where it is laid down what quota of the total amount to be placed on the market may be offered by each member. Production is not merely limited as such but is decided by the quantity of goods to be placed on the market. This quantity is divided up among the members according to an agreed formula. This form of cartel is not very common, as it involves a rather rigorous control, and the allocation of *orders* has often proved more convenient. The International Steel Ingot Syndicate is an example of such a market-quota system.

Another form which the distribution of supply takes is found in the *Tendering* or *Quotation Cartel*. Here the association decides, when quotations are submitted, which member shall make the lowest tender and take the contract. The other members then put in higher tenders largely as a blind, and the market is thus divided up in advance among the members according to an agreed formula. These cartels form an intermediate stage between the market-quota and order-distributing cartels.

Finally, to the price-cartels there correspond cartels on a higher level devoted to *distribution of profits*. In this case the total receipts of the members flow into a common fund and are then distributed among the members in proportion to their quotas; or, alternatively, every member undertakes to pay into the common fund the difference between an assumed basic price, corresponding more or less to the cost of production, and an agreed minimum selling price. Many of these cartels, which in recent times have become more frequent than before, seek to control the production of their members through the proviso that a firm which exceeds its quota must make larger payments into or receive smaller refunds from the pool for the amount of excess in production or sales. In this way, the fixing of standard public prices is rendered superfluous, since every firm has an interest in not selling under the agreed minimum price, while on the other hand it is possible for an individual firm to reap the full advantage from a higher selling price which it may perhaps be able to get in consequence of the special quality of its products.

Another manifestation of the profit-distributing cartel can be found in the special trading or marketing company (mostly a public company, A.G., or limited liability company, G.m.b.H.) set up by the producers. This company buys their production, sells it at agreed higher prices, and distributes the profits to the members. This form of the profit-distributing cartel may be considered the most highly developed of all cartel forms, since it encroaches most of all on the autonomy of the members. It takes over completely one side of their economic activity, viz. sales, and leaves them independent only in respect of production and in the ownership of their plants. If this too is taken from them, we arrive at the monopolistic *Merger* or *Trust*, where the autonomy of the firms is completely eliminated, and a new consolidated enterprise takes their place. This has been the main course of development in America and will be treated below.

The above division of cartels into three types results from the nature of monopoly in exchange, as I pointed out in 1897 in my early work, *Die Unternehmerverbände*, which was based on Menger's theory of exchange.²³ It has been verified and proved entirely adequate by the actual development of the cartels since then. Since that time numerous other classifications have been attempted, which, however, all try to bring in other forms of organization and cut through various principles of division. Thus simply because the word cartel happens to be used in these cases, they have treated cartels governing conditions of contract, cost-accounting, purchasing and finishing standards as equivalent to the real cartels, and tried to force them into one and the same plan. That is impossible from a scientific point of view. Taking, for instance, agreements as to conditions of sale, which often supplement cartels in the proper sense though they also occur apart from them, it is quite true that one hears 'conditions of contract cartels' spoken of; but if, as is now the acknowledged practice in economic science, cartels are taken to be associations with a monopolistic purpose, this expression is evidently incorrect, and we should speak of 'agreements' For these agreements with regard to terms of payment, terms of delivery and other conditions of trading have by themselves no monopolistic force and are therefore not cartels, though they are associations, since they require of their members the performance or non-performance of certain actions. They resemble the cartels only because the breach of such agreements, e.g., free packing or the concession of long terms of payment, involves certain direct concessions to the consumer, and this is regarded by competitors in exactly the same light as price-cutting. In so far as the conditions of contract agreements supplement the provisions of a price-cartel it is legitimate to speak of their monopolistic effect and thus of *cartels*; also where these conditions are in fact prices, as in banking. The extent to which to-day all kinds of trading conditions and terms of contract are standardized for a whole trade is very considerable indeed, and is very characteristic for contemporary economic life. If all these agreements were to be regarded as monopolistic and thus as cartels, the number of the latter would have to be put enormously higher than it is. They too, apart from proper cartels, are of great advantage to the sellers, as for instance the agreements as to closing-time, publicity, bargain-sales, returns, attitude towards public authorities, labour, etc., provided only that the majority of the firms in the trade

come into them.

On the border-line between associations and cartels proper there are the agreements as to trade-marks. In the case of such trade-marks or proprietary brands, as is well known, the producer fixes the price down to the final consumer — which he is able to do because he has a State-recognized monopoly in the registered trade-mark. For all that, the producers of similar goods, hair-oils for example, are normally in competition with each other, and when, for instance, they agree among themselves, as e.g., the producers of tooth-paste have done, that the small tube shall everywhere cost 7d. and the big tube 1s., this is evidently nothing less than a price-cartel. But where such producers agree upon reprisals to be taken against dealers who do not keep to the prices which each producer has fixed for his branded products, this proceeding is not a cartel, since it is not directed at control of the market. Such agreements, e.g., for a boycott of these dealers, may evidently be entered into by producers of quite different branded articles which do not compete with each other, e.g., the producers of hair-oil, of tooth-paste or of soap. Such agreements therefore do not aim at the exclusion of competition, i.e., are not monopolistic, but merely at *protecting an already existing monopoly* and at punishing a dealer who breaks his contracts. But of course a general boycott of this kind may involve misuse of economic power and illegal forms of pressure on the part of an association (vide Part IV).

The same objection — that they are associations but not cartels — applies with equal force to the so-called ‘cost-accounting cartels.’ Such is the name given to associations, whose members agree not upon common price-lists, but merely upon a standard system of cost-accounting and perhaps upon the addition to works cost which should be made to cover profits. These agreements derive from the experience which is continually being made that the costing systems of individual firms are often extremely defective and are based upon widely differing principles. Tschiersky²⁴ expects that agreements of this kind, which refer not to the actual costs of production but only to the principles on which they are to be calculated, will lead to ‘the elimination of inelastic average prices and the substitution for these of a more individual and thus more elastic price policy.’ In themselves these are nothing more than associations for fixing standard systems of cost-accounting; but where they

include agreements as to the percentage of profit to be included, they may be regarded as 'incomplete' price-cartels.

As for the significance of these agreements, of course progress in methods of costing is eminently desirable in itself; and linked up with agreements covering profit-margins they evidently represent an attempt to apply the cartel principle to trades with a more highly individualized production, trades unsuited to the hard and last price-fixing of the mass-production industries. But viewed from the standpoint of the cartel the refusal to fix prices must always be a weakness which is not to be made good by any standardizations of costing, useful as it may be.

It is still more evident that the so-called '*finishing cartels*,' which refer to standardization of processes and types, and division of product, or the various kinds of joint business operations, are not really cartels. H. Müllensiefen, in his book, *Kartelle als Produktionsförderer*, Berlin, 1926, p. 25, gives a whole list of such measures for promoting trade :

(1) Purchasing: Central purchasing, joint production or supply of raw materials.

(2) Production: Agreement on manufacturing programmes (Division of Product, Standardization of materials and process specifications, etc.), exchange of results or experience (appointment of a board of technical experts), exchange of specialist workers, engineers, etc., joint testing of new raw materials, models, designs or processes, joint acquisition of licences and patents, central research and development, joint manufacturing plants or equipments, or erection machinery or erectors, central designing and construction offices, central transport and delivery arrangements to ensure better works' adjustment, problems governing production and rate fixing (cost-accounting), distribution of production, formation of technical committees, improvement of statistics.

(3) Central Selling arrangements, by means of selling bureaus, export associations, pooling of stocks, joint maintenance and repair shops, delivery from the works most favourable from the point of view of freight, joint commercial representatives (especially for abroad), central publicity (catalogues, newspaper advertisements), joint participation in exhibitions, etc.

All these are most admirable and most valuable forms of organization, but they are not of the essence of a cartel; they may be combined with one, or else, as is usually

the case, they exist apart from any connexion with any monopolistic association. All these associations, these methods of economic improvement and these joint arrangements are often included in the notion of 'cartel' for the sake of rebutting the one-sided attacks upon the cartels which are so common to-day by pointing to the undeniably useful contributions to organized effort they represent; but this inclusion does not make for scientific clarity.

First of all, real monopolistic agreements are those which are based on the exploitation of a patent, and we can term them, therefore, *patent cartels*. They are a combination of two forms of monopoly, the State-enforced monopoly inherent in the patent, and the contractual monopoly secured by the cartel. Many enterprises agree upon an exchange of patents, and agree to extend their licences to each other.²⁵ This is at the present moment the main content of the international lamp cartel. Agreements as to the use of patent licences cannot in themselves be regarded as cartels. But when patent licences are extended to other firms, especially to foreign firms, and even to firms in the same country, contracts for the protection and the exploitation of the monopoly position are normally necessary. These are agreements which regulate not the relationship between the licensee and the patentee, but the position of the former as against the market, e.g., agreements as to the territory in which this or that licensee is to be allowed to offer or market his goods, and often also with regard to prices and conditions of marketing. Strictly speaking, these too are agreements which have not in themselves a monopolistic character, but acquire this character *indirectly*, in consequence of the *monopoly given by the patent*, i.e., through the fact that the firm which agrees to share its licences is already a monopolist. Considering the frequency with which patent licences are shared, especially for sales in other countries, the number of such patent-exploitation cartels must be very large.

Chapter VI: The Cartel Movement Outside Germany.

The attempts of firms to eliminate competition by agreement, thus improving their economic position, have attained to considerable importance in all countries in which large-scale industry is considerably developed. But owing to the influence of their different legal systems and their different economic traditions the forms of association in other countries are often different from those which prevail in Germany.

The cartel movement in *Austria* shows the greatest similarity to that of Germany, and most of what we have said of the German cartels can be applied also to the Austrian. But the question of State interference with the cartels rests in the case of Austria on a different legal basis, as we shall see in Part IV. Cartels, however, have made quite as much progress there as in Germany, considering the relatively backward industrial development of the country, and very many Austrian cartels are associated with the corresponding German cartels, and there is often one cartel covering both countries.

After Austria *Belgium* is probably the country which possesses the most cartels in our sense of the word. They too have mostly been developed on German models, and before the War many of them were linked up with the corresponding German cartels.

In *France* cartels are relatively less developed than in the countries mentioned above. Still, especially in the iron and coal industries (where their beginnings go back to the forties), further in the chemical, glass and porcelain, sugar, salt, soap, petroleum, button, and paper industries, also in certain branches of the textile industry, there is a number of more or less solidly constructed associations. It is clear that monopolistic combination was facilitated on the one hand by the relative

stagnation of French industry, but checked on the other by the law and the more individualistic tendencies of the people. Here too many cartels had agreements with the German cartels and by means of these agreements regulated German competition, the pressure of which acted as such a powerful stimulus in originating the War. Cartel formation has experienced a great advance in France since the War, as has French economic activity in general.

Even countries, less developed industrially, have their cartels, since they did not need to invent this device for themselves, but borrowed it from the big industrial states, especially Germany. Thus in *Hungary* there are among others cartels in coal, iron, steel screws, spirits, mineral water, carbonic acid, petroleum, carbide, soda, beer, sugar, glue, dyes, borax, tartaric acid, tanning materials, magnesite, artificial manures, matches, bricks, cement, candles, coffee-substitutes, incandescent lamps, cables, buttons, cloth, woven goods and leather. In *Switzerland* there are cartels in the silk, cotton, lace, dyeing, lime, velvet, granite, brick, milling, milk, chocolate, vinegar, paper, wood-pulp, chemicals, brewery, electricity, watches, cables, rubber, aluminium, cement, films, matches, tannery and beer industries; in *Italy* chiefly in the iron, sugar, paper, marble, cotton, sulphur, steel screw, pumice-stone, artificial manure, silk, spirits, citric acid, milling and glass industries; in *Spain* in iron, wire, wire nails, screws, rolling stock, pyrites, coal, copper, lead, timber, resin, cement, mirror glass, table glass, paper, silk paper, rubber goods, cotton weaving, jute weaving, woollen weaving, artificial manure, soap, nitrate, sugar, flour, meat, canned goods, rice and beer;²⁶ in the *Scandinavian countries* especially in products of the timber industry, iron ore, electrical goods, machines, molybdenum, copper, carbide, bricks, cement, limestone, granite, glass, cellulose, paper, soap, peat, soda, spirits, artificial manures, meat, chocolate, flour, margarine, carbonic acid, tar, tin-plate, cotton, jute, textiles, superphosphate, canned goods and in shipping; in *Bulgaria* in spirits, oil of roses, and tobacco; in *Czechoslovakia* in lignite, iron, railway materials, structural steel, chains, cables, insulating materials, screws, tubes, copper, brass, aluminium goods, mineral oils, carbide cement, asbestos, bottles, table glass, bricks, glue, cellulose, paper, cloth, string, jute, spirits, sugar; in *Poland* in coal, iron, wire, wire nails, tubes, chains, enamel goods, glass, zinc, cement, porcelain, paper, sugar, cotton, leather, spirits, flour, candles, paraffin, naphtha, superphosphate, pharmaceutical products, perfume, cotton, sulphuric acid; in *Greece* in wine and

spirits; in *Rumania* in petroleum, pig-iron, nails, lime, glass, paper, spirits, wood, wooden pegs; in *Russia* before the War in coal, iron, copper, cement, sugar, matches, tobacco, salt spirits, mirror glass, paper, chemicals, cellulose, buttons, petroleum, glue, rubber, asbestos, glass, and cotton industries, calico printing, book printing and agricultural machinery; in *Portugal* in cotton and flour; in *Egypt* in sugar; in *Japan* in coal, anthracite, pig-iron, steel, copper, cotton spinning, silk spinning, wool spinning, silk winding, cement, superphosphate, matches, bleaching powder, paper, printing paper, cellulose, cardboard boxes, sugar refining, wheat milling, crab-canning, beer brewing, brandy distilling, and between the West and East Japanese shipyards;²⁷ in *Turkey* in sugar, Smyrna carpets, and colonial produce; in *Cuba* in sugar; in *Argentina and Brazil* in matches; in *Chile* in saltpetre; in *Mexico* in sugar and hemp, etc., etc.

It is in England and in the United States of America that the development of monopolistic associations has differed most from that which has obtained in Germany. It is true that already in the eighteenth century there were in England regular cartels in coal-mining, and in the first half of the nineteenth century organizations of the kind are to be found in certain trades, for instance in insurance, in copper-mining, in bookselling, and the railways. But these for a long time remained exceptional cases, and in England development, generally speaking, took another course. The reasons for this are, first, that English law and the English legal tradition took a much stronger line against 'restraint of trade' than was the case in other countries; and secondly, the individualistic tradition of English industry, which, in accordance with English economic theory, has always regarded free competition as the only natural condition of economic life. These traditions obstructed the creation of monopolistic organizations, even when they only represented the views of a few firms while other firms were in favour of monopoly. Thirdly, there was the lack of protective tariffs due to the traditional economic theories, and, though this did not prevent the formation of cartels in general, it prevented their having a privileged, tariff-protected home market which could be exploited by means of cartels. Fourthly, since the competition of other countries became serious, there has been the additional consideration that English industries, not merely on account of England's free-trade policy, but also on account of their proximity to the sea and the lack of a hinterland capable of affording a natural market, have been more exposed to foreign

competition than have corresponding German industries. Still there is and has been a large number of cartels in England, for instance in the coal, iron, textiles, cement, porcelain, carpets, and chemical industries. But these have been mostly quite loose price and production cartels whose existence has been largely intermittent. Only in recent times has the profit-distributing cartel or 'pool' been more vigorously developed, in the form of an arrangement whereby a confidential representative, generally of one of the great firms of auditors, the chartered accountants, arranges a quota on the basis of an audit of all the different firms' books, and communicates this to all the member firms. At the end of the month each firm has to give particulars of its production and its over to the accountant; the latter compares these data with the quota and tells each firm by how much it has exceeded or fallen short of its quota. In the former case it has to pay a sum into the pool in the latter it receives a certain share of the pool, which however is only finally worked out at the end of the year. According to the English inquiry of 1921, there are thought to have been over 500 cartels of this type.

But a lasting position of monopoly was, generally speaking, only possible where all or the great majority of the firms could be amalgamated in a *single concern*, thus depriving them of their autonomy and replacing them by a monopolistic *merger*. This has taken place in many industries, to some extent in industries where, for the reasons outlined above, the earlier attempts to form a cartel had proved unsuccessful, for instance in salt, soda, tobacco, woollen dyeing and combing, cotton finishing, cement and paper industries. Another method for obtaining the advantage of a monopolistic control of the market was invented by the Birmingham manufacturer, I. E. Smith, the so-called *Alliance*. These were agreements between an association of firms and a Trade Union, based on '*exclusive dealing*' between the two associations (vide Part II); the workers undertook to work exclusively for members of the cartel, while the employers agreed to employ exclusively members of the Trade Union, and promised them also increases of wages corresponding to any increase in the prices realized by the cartel. Where all the workers were in the Trade Union, such a treaty of alliance was an excellent protection against new competition, and their monopoly position was thus very secure. But, in fact, new firms were often successful in drawing workers from outside the neighbourhood, and so these alliance-combines, which have existed at times in the bedstead and bottle industries,

and in many branches of pottery, have not managed to survive.

It must be observed that although monopolistic combinations do not play an important part in England, relatively to its old and advanced industrial development, yet the other tendencies towards new and more advanced forms of association (mergers, combines and the like) of which we shall speak presently, are very widespread there. Especially since the War, the tendency to amalgamate has been very marked in the most varied spheres and in many forms, and English industry is making great efforts to follow the German and American examples.

In the United States the development has taken a somewhat different course from that followed in England. There too, since the seventies, attempts have been made, in various trades, but especially by the railroad corporations, to eliminate competition by means of agreements. Profit-distributing cartels, the so-called pools, sometimes achieved considerable importance in railroad development. But these cartels were even less lasting than the English, because United States law and the United States judiciary defended the traditional freedom of trade, often with even greater vehemence than in England, and declared any kind of restriction illegal. As in consequence all agreements in this sense were null and void before the law, they were violated by any individual — and the Americans are singularly unscrupulous in this respect — directly it seemed to be in his interest to violate them. Still there is even to-day no small number of cartels which have been concluded by the great concerns among themselves — in quite a loose form, it is true and without legal enforceability, and thus usually not very lasting — (the so-called ‘Gentlemen’s Agreements’). One of the most important and the most durable of these has been the Steel Rail Cartel.

The American firms naturally looked for another legally enforceable form of union, and finally found it in the Trust institution of English law, i.e., control by means of trustees. In Part VI we shall speak of the trusts in America and in other countries.

Chapter VII: General Character of Present-day Economic Struggles.

We have seen from the foregoing how the tendency towards monopolistic organization is in evidence over the whole civilized world. Everywhere attempts are being made to exclude competition by means of joint organizations, thus assuring to the members of a trade better conditions of trading. If we are to estimate the significance of this development rightly and the tremendous change it has made in the conditions which formerly obtained — a change which has taken place in little more than a generation — it must be remembered that until a few decades ago the prevailing economic and political school of thought was that of '*economic individualism*.' This school declared that an economic *struggle of all against all* was the only 'natural' condition of economic life, and saw in free competition the universal regulator of the whole economic system. Any one who had prophesied then that within a generation almost all trades would be organized in combines, and would have more or less excluded competition, would have been regarded as a fool. Possibly ideas of this kind would have been designated 'socialistic.' But no one at that time foresaw the development at all, and the Socialists imagined it quite differently.

To-day, in actual fact, competition, the mutual struggles of sellers in the same trade, is in many fields of economic life as good as excluded, even if only temporarily. But *rivalry*, let it be said at once, is by no means excluded — the circumstance that every one would like to earn as much as others, that every one tries by lowering costs to outdo others, and in this way get bigger and bigger profits.

However, the economic struggle, at least as far as it emerges into view, has taken on a different character. Formerly in the era of free competition, the various producers, and in fact all persons taking part in trade exchange, struggled *against one another* for the customer, whereas now the struggle of the customer has become a struggle *against* the customer. Under the conditions of the old competitive struggle, the customer, the consumer, looked on — he was the *tertius gaudens*.

He got the cheapest possible prices, and from his point of view regarded this condition of things as 'natural.' To-day we realize that such free competition may make for satisfaction of the consumer's needs at the lowest price, but that it is in the highest degree uneconomic, often involving a very great waste of capital. The more the capital requirements grew with the development of large-scale industry, the more attempts were made to avoid the dangers and disadvantages of this 'anarchical' condition of things, and the more some economic *organization*, aiming at elimination of competition through agreement, became recognized as a necessity. In addition, the development of modern large-scale production and the joint-stock system brought about a much more intimate connexion between the great body of the trading public and the producers (era of *share-capitalism*), so that to-day the portion of the population who are *mere consumers* and are *only* interested in having low prices is certainly smaller than it used to be — especially since the large bodies of workers have been enabled, by means of their organizations, to obtain rises of wages comparable with the rise of prices. Low commodity prices are, as is well known, by no means a sign of economic prosperity. In any case, under the influence of the modern producers' organizations, the prices of most commodities have risen greatly, and with this rise the *price-struggle* has grown continually more violent.

Thus to-day all sellers of goods and services have a hard struggle *with their customers over price*, whereas formerly they used to struggle *with one another* for the market and the customer got the advantage of this struggle. This struggle has been abolished by means of cartels, which are monopolistic *associations*, and thus the struggle with the customer is to-day not one of *individuals* but of *organizations*. The parties who used to compete with one another have joined up, but many groups of buyers have united, as we shall see, to form *their* own associations. This organized struggle between associations of sellers, above all cartels and trades unions, on the

one hand, and buying organizations on the other, is the true characteristic of the present economic era.

The exclusion of competition between the members of the same trade or profession is therefore far from having led to a condition of economic peace, but on the contrary in many trades the present-day struggle against the customer, especially in the finishing trades and commerce, is far fiercer than the former struggle for the customer. These struggles, not being carried on between isolated firms, but between whole industries or trades organized against one another, take on more and more the character of struggles for power between classes and the creation of such classes and their differentiation has been intensified by them. Those whose position is jeopardized most as a result of these economic struggles are the ultimate consumers, who can do relatively little to organize themselves. Thus the struggle between the various producers' organizations and the ultimate consumers, and the protection of these latter by national economic policy, will presumably be the main problem of the future, against which the development of the cartels and trusts must strike.

Herein lies the great significance of the co-operative movement, in particular of the consumers' societies, upon which too much emphasis is often laid by many to-day, partly as a result of the wish to turn them into a weapon in the class war, partly as a result of theory, held by Socialist circles, that they afford a suitable means of excluding that 'profit' which has been so often misunderstood even by bourgeois²⁸ economists. That is all Utopia. The consumers' co-operatives do not imply any alteration of our economic order, any more than the producers' co-operatives, which people used formerly to believe in with the same fervour as now in the consumers' societies. These are organizations of economic persons engaged in exchange (by no means always persons of one and the same social class), buyers' associations, aimed at increasing the bargaining power of the buyers in this exchange — doubtless a very important and valuable function, particularly now that sellers are ranged in combines, but not outside the framework of the modern economic system. The bourgeois, however, have been for decades so educated by socialism into believing in an early overthrow of the capitalist system, that they tend to look at all new capitalist formations from this point of view. And so we find a very widespread idea that cartels, concerns and trusts are the last stage of the capitalist system, that these

monopolistic organizations in fact bear in themselves the seeds of its decay, since they eliminate the fundamental organizing principle of the capitalist system, viz., unrestricted competition. The few owners of the gigantic businesses which remain, when the formation of monopolies has reached its highest pitch, will then have to be expropriated according to the well-known Marxian formula.

The idea that unrestricted competition, the organizing principle of the modern economic system, is being abolished by means of the cartels and trusts, is still very prevalent even among bourgeois economic writers. It is a useful doctrine with which to defend the sociological-collectivist treatment of economic facts which is the one most in favour to-day — the theory which denies that economic phenomena can be explained by motives of individuals. This view stands in close connexion with the still frequent confusion of economic *explanation* with economic *policy*. Half a century ago a school of economic policy which saw in the freest possible competition the best organization for economic life happened also to be dominant in economic science. Their notion has proved incapable of complete realization. Not merely was their principle abandoned by State economic policy, when all states, including finally England, went over to protective tariffs, but a more important fact still was the violation of the principle through the formation of joint organizations by competitors. Trades unions of workers, the cartels of the producers, buyers' and sellers' co-operatives, organizations of dealers and consumers developed and acquired ever-increasing importance.

But did this mean the exclusion of competition? By no means. The fact is that the two hypothetical extremes of exchange organization, monopoly and competition, have never been completely realized anywhere; but on the contrary, each of them, when driven to the utmost limit, gives birth to the contrary extreme. Proudhon's remark cited above, 'Competition kills competition' simply means that competition, driven to its utmost limits, leads to a monopoly of the strongest surviving competitors. But exactly the same is true of monopoly, unless it has a statutory basis; if a monopolistic position is really exploited and produces monopolistic effects, then it gives birth to new competition. We cannot say in general that the one or the other form of organization is the more desirable; up to the present economic life has never been completely organized either in the one or the other direction, but there has

always been a combination of both. Both must be in a sort of unstable equilibrium, each ready to become effective whenever economic tendencies go too far in the direction of the other.

It is, however, altogether a mistake to see in unrestricted competition the organizing principle of present-day economic life. It is this view that has led to the assertion that the former individualistic economy has already long been defunct, since competition has been eliminated by the formation of private monopolies. In consequence of which many have been anxious to replace private monopoly by State monopoly, to transfer the means of production from the hands of private monopolists to those of the State, in short to initiate an era of socialism. But even though the parties to an exchange are now often organized, yet competition or *rivalry* (Wettbewerb) is by no means excluded. Competition is the collective, sociological form of trade rivalry, a notion based in the psychology of the individual. And as people are now gradually beginning to realize, this latter is the more fundamental notion, since it takes us back to human *purposes* which are the only adequate explanation of economic life.²⁹ Rivalry will remain the organizing principle so long as there is more than one seller in the market. It is not free competition that is the organizing principle of modern exchange, but the *desire for private profit*. The organizing principle of economic life cannot be an external *condition*, but must be sought for in the human soul, in human effort. Economic theory hitherto prevalent, with its emphasis on 'goods' or 'commodities' and its tendency to treat the whole economic system as one unit, could alone fail to recognize this. It is the *search for individual profit* which leads to the offering for sale of the various goods and services and to the distribution of capital and labour between the different branches of economic activity. It is this desire which explains price-formation, as I have outlined in my works on economic theory. And this search for individual profit is by no means eliminated by the formation of private monopolies, which do not therefore in the least alter the organizing principle of capitalist economy. It is therefore incorrect — and an error only to be explained by prevailing collectivist theory — to confuse — as recently even non-socialists such as Sombart, Schmalenbach, Niklisch and others have tended to do — the development of cartels, concerns and trusts with the extension of public trading corporations and the growing movement of the State

towards regulation of and interference in economic life. These theorists say that since the World War we are going through a state of transition towards a new planned economy, and that this is the Late-Capitalist Era, after which of course a Socialistic epoch is to be expected. But the intimate interconnexion and interrelation of private economic activities is something altogether different from that other tendency towards far-reaching State interference. Here, too, we should not suppose that the tendency will necessarily be pushed to extremes; there is no *new principle* of economic organization involved either in public trading corporations or in the thoroughgoing regulation of private activities by the State, and no such new organizing principle has in fact been proposed. We shall deal with this question further at the end of Part VI.

Part II: The Effects of The Cartels on Industry.

Chapter VIII: Effects on Firms Organized in Cartels.

It is natural to suppose that an arrangement which has imposed itself on our economic life with such elemental force, and which has been so widely adopted, must bring some special advantages to the people that advocate it. And, in fact, the advantages of the cartels for constituent firms are extremely great.

Since, from the standpoint of the economy of the individual firm, we traced the origin of the cartels to *falling profits* on the one hand and *rising risks* on the other, it will be possible to distinguish the effects of the cartels on member firms in two ways.

The diminution of profits which was caused by the continued intensification of the competitive struggle is counteracted by mutual *price-agreements*, generally involving a rise in the price-level. The possibility of direct action upon prices, the relative independence of conditions of supply and demand which they thus acquire, are the most obvious advantages which the cartels offer to the firms. Cartels bring about a *uniform market condition* for the whole trade. The producer no longer needs to watch anxiously to see whether his competitor is lowering his prices, a proceeding which he will be bound to imitate willy-nilly. Of great importance, too, is the possibility which the entrepreneur has of raising his prices continually in boom periods. Whereas, at such times, competition often prevents him from exploiting the situation to the full, a cartel enables him to keep adjusting his prices to the increasing demand. This is the reason why so many cartels are concluded in times of expanding trade.

But even when the cycle is on the down grade and a time of contraction has come,

a solidly-built combine is of great advantage. It is true that at such times many cartels break down. But, provided the combination is strong enough to survive the crisis and to avoid the danger of over-production by means of restrictions, it should be possible to prevent a fall of price even in times of contracting demand and generally unfavourable conditions. The Rhenish-Westphalian Coal Syndicate especially was successful in this, as far back as the crisis of 1901 and the following years; it hardly lowered the prices at all during the time of the depression, and has kept on raising them since. The following table gives, up to 1893, the year of foundation of the syndicate, the yearly average prices per metric ton of bituminous coal on the Essen coal exchange, and since that date the standard or agreed price which the mines receive from the syndicate (the accounting year runs from April to the end of March). Since March 1919 there has been a statutory syndicate with State fixing of prices (vide Part IV).

Year.	Marks.
1881	5.48
1882	5.77
1883	5.88
1884	5.22
1885	5.63
1886	5.60
1887	5.62
1888	6.04
1889	8.48
1890	10.72
1891	9.86
1892	8.50
1893	7.30
1893-4	7.0
1894-5	7.50
1895-6	7.50
1896-7	8.30
1897-8	8.60

Robert Liefmann, *Cartels, Concerns and Trusts*, 85

1898-9	8.60
1899-1900	9.10
1900-01	10.10
1901-02	10.10
1902-03	9.0
1903-04	9.0
1904-05	9.0
1905-06	9.30
1906-07	10.0
1907-08	11.0
1908-09	11.0
1909-10	10.50
1910-11	10.50
1911-12	10.50
1912-13	11.5
1913-14	12.0
1914	11.25
1915 January	11.75
April	13.75
1916 September	14.75
1917 January	16.75
October	18.75
1918 April	24.30*
1919 January	41.30*
October	77.90
December	86.90
1920 January	106.90
February	149.70
April	192.40
1921 April	227.40
December	405.0
1922 February	468.10

April	907.50
July	1212.50
September	4010.50
October	5055.0
November	11003.0
December	18600.0
1923 5 January	22762.0
3 February	68000.0
3 March	123000.0
3 June	280000.0
9 July	835000.0
22 July	2.0 Million
9 August	23.2 Million
27 August	71.0 Million
5 September	168.0 Million
14 September.	620.0 Million
18 September	28.0 R.M.
24 September	38.50 R.M.
15 October	24.44 R.M. †
December	20.20 R.M.
1924 July	16.50 R M.
October	15.0 R M.
1925 December	14.92 R M.
1926 January	14.87 R M.
1928 May	16.87 R M.

* The prices include the Coal Tax since April 1918, and the Coal and Turnover Tax since January 1919. Naturally only single prices are given during the inflation period.

† After the repeal of the Coal Tax.

The almost continuous rise of price before the War under the influence of the syndicate can be readily recognized. It is true that in the boom of 1900 it did not quite reach the prices of 1890 or of the early 'seventies, but in the boom of 1906–08

it got the highest prices for its coal which have ever been seen.

The other closely-knit combines were much less successful in keeping up their prices during the depression of 1901–04, and that mainly because in their case expansion of production during the boom could be brought about more easily and more speedily than in the case of coal-mining. Since the demand for products such as iron, steel, cement, etc., is by no means so stable as that for coal, it proved impossible for these combines, in spite of great restriction of production, sometimes down to 50 per cent of their quota, to keep up prices. In consequence of this some cartels, e.g., that of the cement industry, had to be dissolved. These conditions showed up clearly the varying suitability of the different industries for organization in cartels.

In the following decade, however, there was noticeable everywhere an effort to attain greater stability through better organization and above all to avoid too violent and sudden recessions. In this respect great progress is to be noted since the crisis year of 1901. Then it was only the Coal Syndicate which kept up its prices as long as possible and then lowered them only by a very little, whereas, in the slumps of 1908 and 1913–14, the Steel Works Association was also successful in keeping up the prices for the greater number of its products. As an example of its price policy we shall give its prices for *billets* from the time of its formation (the Roman figures show the quarters of the year in which the alteration of price took place) :

Year.	Marks.
1905 II	90.0
1906 II	94.0
IV	100.0
1907 I	105.0
II	110.0
1908 I	100.0
III	95.0
1910 I	100.0
1912 III	105.0
1913 III	95.0
1914 IV	102.50

1915 II	110.0
III	115.0
1916 I	122.50
1916 III	142.50
1918 IV	202.50
1925 I–III	120.0
IV	119.25
1926 II	119.0
1926 IV up to date	112.50

Here it may be seen that in the last slump before the War the Steel Works Association brought down its prices before the Coal Syndicate, and that the rise in price is not so continuous — which fact, of course, is primarily due to technical factors.

In the *Cement Industry* it is also possible to remark a greater degree of stabilization resulting from cartels. Whereas in 1900–01 most of the cement cartels were dissolved, in the slump of 1908 and the still worse one of 1913, they managed to survive in spite of great difficulties resulting from over-production, and were able to even out prices and thus profits as well. It is true that this industry was always, as it is to-day, the theatre of extremely violent struggles between cartels.

In minor industries too, such as the mirror-glass industry, in various branches of the textile industry, cartels have outlasted depressions and brought about a relatively favourable situation for their members. The effect upon the consumers of this policy of keeping up the price will be discussed in the next chapter; at any rate for the entrepreneur a well-organized and firmly-based cartel provides a certain degree of insurance against fluctuations in trade. It is true, however, that conditions are not equally favourable in all industries and the possibilities of preventing a large expansion of production in times of boom are not everywhere equally great.

The closely-knit syndicates, which at least in the mass-production industries are the only sure means of stabilizing prices, have their disadvantages. They are very complicated structures, and an even distribution of orders, with a due regard for the various types and qualities of product and for the wishes of the customer, is very difficult to attain. The more various the types and qualities of the products, the more

difficult is the formation of syndicates. For this reason, syndicates are only formed for staple products, while for quality products it is necessary to be content with price-agreements.

A great advantage for the entrepreneur lies in agreements as to conditions of sale, methods of payment, credits and discounts, packing charges — agreements which are normally concluded in connexion with price-cartels. On the one hand, they serve to make the price-agreements really effective, on the other to eliminate many of the abuses which in many trades are bound up with these matters and which often amount to an unfair kind of competition. Even when they are not in connexion with price-agreements, such agreements have become very widespread, not only in production, where they play a large part especially in the finishing branches of the textile industries, but also in the most varied branches of *commerce*. They have not, strictly speaking, any monopolistic effect, but represent a considerable diminution in competition by eliminating all the competitive devices which are liable to be employed in this field and which are often more in-jurious to the individual firm than competitive prices. Above all they involve a redistribution of risk in favour of the entrepreneurs, as the result, for instance, of more favourable terms of payment, the abolition of options (the fixing of prices by the seller without the buyer being obliged to accept them) and similar practices. Further, they render possible quick adjustment to the falling value of money, the insistence on extremely short terms of payment and the enforcing of onerous conditions of delivery in general. Agreements governing conditions of contract put all competitors on the same footing, thus strengthening their bargaining power as against the buyers. These, then, often combine in their turn, especially the retailers with a view to mitigating selling conditions, which are often very onerous. In many branches of trade an understanding has been reached between the two parties, in others a violent struggle with regard to the conditions is still raging. These struggles and the resulting agreements are one of the most significant things in present-day economic life, since, as was formerly the case only in the struggles against workers, both parties are now organized along the whole line, advance together and conclude the final agreement jointly.

Understandings regarding conditions of sale may be very valuable from the point of view of the whole national economy, since, as is well known, the excessive granting of credit, for instance, which is very frequent at all stages of the economic

process down to the retailers themselves, often considerably increases the price to the ultimate consumer. The public thus has an interest in the elimination of these offshoots of competition and in the fixing of the same prices for all buyers. On the other hand, the greater ruthlessness which has become normal in business since the War also leads to the fixing of conditions which are extraordinarily hard on the buyer.

For the entrepreneurs, however, the lessening of the risk to their capital through the cartels is no less important than the preservation of profits. It is true that the part played by this factor is not equally great in all branches of industry. It is of particular significance in those industries in which fixed capital is most important, and these are, in fact, the industries which have the strongest cartels. But here the cartels have to encounter quite a peculiar difficulty. These enterprises with their relatively large fixed capital — in this connexion overhead costs, such as management and directors' fees, are relatively unimportant by comparison with the capital — have a strong interest in lowering costs per unit by increasing production. Their efforts in this direction are increased by the cartels, especially by the quota-fixing cartels, in which each producer tries to get assessed at as high a quota as possible, and most of all by the selling syndicates, since these relieve the individual members of all responsibility for marketing. Thus it is precisely these cartels which have the greatest difficulty in rationing production, or indeed in keeping their members occupied to anything like the extent of their capacity. But the less successful they are in this, the more the great mass of fixed capital tends to increase costs. Here again we see how the economic system spontaneously evolves a corrective against an excess of monopoly. If the members are not sufficiently occupied, and their costs in consequence mount up, then the firms with the lowest costs will prefer competition and dissolve the cartel. We shall discuss the questions involved in this tendency of organised industries to expand their production in more detail in the next chapter.

Still, the diminution of the capital risks which the cartels render possible through an improved adjustment of production to the fluctuations of demand is of great advantage. In times of depression the value of combination among producers is particularly striking compared with the isolation of 'outside' competitors. In the competitive struggle we may observe a fact which evidently conflicts with what one would consider economic operation; here the individual cannot reduce his supply

when the condition of the market is unfavourable, but is, on the contrary, rather inclined to increase it. He well knows that an excess of supply can only be counteracted by reducing production, but he also realizes that under open competition he is not able to put this policy into effect by himself, without helping others and damaging himself. This is all altered by the cartels. A common limitation of production is thus, especially in times when depression is setting in, a means of bringing about a speedier improvement of the situation than would be possible under open competition, which ends in the elimination of the weaker firms.

In a very unfavourable economic situation, the entrepreneurs have no other course open to them than to restrict production. Price-agreements alone are not feasible at such times, since the large stocks in the hands of the dealers and of the producers themselves would prevent their being carried out; and the producers have to make sure above all that these stocks, the holding of which normally involves heavy costs, do not increase. This is the reason why especially in the industries lending themselves to cartels, such as coal, iron and steel, metal industries, pottery, porcelain and allied trades, the first cartels, which normally developed in times of depression, were production cartels.

On the other hand, it is not true to say that the cartels brought about monopolistic enhancement of price by artificially restricting the supply and so bringing about a shortage of goods and rising prices. If this is difficult to effect and of rare occurrence in the case of the trusts, in a cartel the degree of unity achieved is never great enough to bring off action of this kind. It is also of the essence of these organizations that they have no need to create an artificial scarcity; they are only interested to prevent an excessive supply and the *underbidding* which comes of it. If there is no such over-supply, they can of themselves fix what prices they like — of course only within certain limits — and do not need to bring about a rise of price by the roundabout way of forcing the buyers to *overbid* each other. In other words, the phenomenon which is fundamental to the capitalist method of satisfying wants, namely, the ‘anticipation of demand,’ the ‘supply-economy’ or ‘surplus-economy’ as we shall name it for short, the fact that in normal circumstances the seller has to make an effort to find a buyer, and that as a rule the customer does not have to run after the producer — all this remains quite unaltered by the cartels.

In spite of this, it is obviously true that the union of producers alone, but especially

in associations or cartels, gives them a position of greater power against other producers. As against the buyers it may be said that in fixing prices the organized producers are in a certain degree sovereign, whereas in free competition it is often the buyer who determines the price; at any rate, in the fixing of the price, he receives a much higher degree of consideration. But the cartel enables its members to regulate not merely the price, but the whole marketing condition of the trade. This has become to-day, in consequence of the interplay of the most various economic interests, a very complicated matter, and the interference of the cartel with this organization has the most far-reaching economic effects. It is the *traders* above all who are affected by it, and the influence of these monopolistic formations upon commerce is among the most significant chapters in the whole development.

In a state of open competition it is the merchants who are responsible for adjusting production to demand. The isolated producer, who is not in position to estimate the momentary state of demand, arranges his production to correspond with the orders he receives from the merchant. The latter takes on the principal risk; his activity is the speculative factor and has the smoothing-out effect of all speculation. The dealer buys when the prices are cheap; at such times he replenishes his stocks and gives work to the producer. He thus no doubt does the producer a very valuable service, but in return for this service the producer becomes extremely dependent upon him. This fact is particularly obvious in the case of small producers with limited capital, as is the case in agriculture, but even big firms are often dependent for their market upon quite a few merchants who take up a more or less monopolistic position in regard to them. In particular the merchants prevent the manufacturers ever getting the full profit out of favourable trade cycles. (This is the reverse of the circumstance that the merchants by their intervention mitigate depression.) In the boom of 1897–1900 they got the lion's share of the profits, and, not content with this, actually caused excessive rises in prices, e.g., in the case of coal. This was a well-known phenomenon during the War and the inflation period. It is at such times, therefore, that the producers make the greatest efforts to eliminate the merchants altogether or at least to restrict their power, and cartel formation makes it possible to do this. We shall see later the economic effects which ensue from such changes in marketing organization.

In times of money depreciation it is commerce which is the most elastic factor; it

can make the biggest speculative gains out of the fluctuations of price. But above all it is in a position to exploit short-term credits for the acquisition of industrial works. Consequently we find at such times that big merchants force their way into production and big concerns are strung together, which for a time quite overshadow the cartels.

Combinations of entrepreneurs also give to them a position of greater power *vis-a-vis* labour. But this finds its expression not in the cartels strictly speaking, which are combinations against the buyer, but in the associations concluded specially to deal with labour, Employers' Associations, Anti-strike Associations and the like. These may be concluded without there being any cartel between the employers, even where no cartel would be possible, as for instance between employers of quite different industries (e.g., the Hamburg-Altona Employers' Association). Still, if anywhere any difficulty occurs with the workers of a particular trade, the circumstance that there is already a cartel in existence between the employers makes it all the easier for them to present a united front to the workers, and in this way generally weakens the workers' prospect of success. *Ad hoc* measures such as an agreement not to employ any worker who has taken part in a strike in the works of any of the cartel members are far more easily carried through than when the employers are isolated. On the other hand, a cartel makes the surrender to the demands of the workers easier for the employers, since they can pass on the increased costs to the consumers. Finally, it must be observed that the distinction between cartel and employers' association will be obliterated more and more if the development, which first began to show itself in the compulsory syndicates, makes further progress; in these the relation of the employers to the workers in the industry is regulated simultaneously with the state regulation of the cartel. Since the Revolution, in proportion as the workers' organizations have gained greater influence over production and over the entire range of economic activity, while all technical organizations have tended to be regulated by the State and to become semi-official institutions, the regular Employers' Associations, which were, above all, organizations for the class war, have begun to lose their importance. But the danger which I have emphasized already is all the more acute, that the producers, that is to say the united employers and workers, will make common cause to exploit the final consumer. Of this possibility we shall have to speak later.

In recent times efforts have been made to make use of the trade associations and the cartels in the interests of a general intensification of the productivity of the German national system, to be brought about by rationalization of production and marketing. Here agreements as to standardization of methods, processes and products and division of activity play a prominent part. Since the principles of this movement have been laid down by the 'Committee for Standardization of Finishing Processes' of the National Federation of German Industries, we may speak here of 'Finishing Associations.' In the earlier editions of this book we gave as an example of specialization the Association for Fire-Extinguishing Apparatus, in which for a long time one firm has specialized in the manufacture of fire-escapes, another in steam sprinklers, a third in patent extinguishers, etc. In the German automobile industry certain firms at any rate have such a specialization agreement among themselves. Since however the risks of a highly specialized firm are greater, a profit-distributing or a participation agreement (vide Part V) between the firms, or a profit-distributing cartel for the whole industry, is frequently necessary. Agreements as to standardization of processes and materials, agreements for the manufacture of a limited number of types and qualities in standard units, may however be quite independent of the cartels; and if they lead to a cheapening of production, they are of great advantage to the national economy. To watch over their execution a number of so-called 'National Associations' (Spitzenverbände) have been formed to bring together all the many local and territorial trade associations and cartels, and make a more energetic defence of their interests possible.

One more advantage of cartels for the producer must be pointed out. This lies in the *higher valuation* which their concern acquires. This is shown in the Stock Exchange quotations of securities of the firms in question. The Stock Exchange always greets the formation of a cartel by putting up quotations. Of course from the national point of view it is a matter of indifference whether a share is valued at 200 per cent or 300 per cent so long as the receipts of the firm remain the same, and the advantage which might be derived from the steadier valuation while the cartel lasts is balanced by the burst of speculation which takes place where the possibility of dissolution or renewal of a cartel is being entertained.

The dominant motive which brought to producers the advantages, just outlined, of being organized, which induced them to unite and give up their isolation and their

costly mutual struggles, was the desire for profit. But of course advantages were not gained without a sacrifice on their part, and this sacrifice is the *restriction of their independence*. That this is felt to be a serious sacrifice is proved by the many difficulties which go to the formation of a cartel and which are due to the objections of a few firms who consider that complete independence would pay them better. Generally speaking, it is true to say that the benefits derived by producers are the greater the more they allow themselves to be restricted by the cartel. Solidly organized cartels, which interfere considerably with the independence of the individual, obtain, at least in conjunction with the rest, these benefits for their members in a higher degree and above all for a greater length of time than do mere price-agreements or production-agreements.

There are however always a few firms who are anxious to enjoy the benefits of the cartels but will not make the necessary sacrifices. They often manage to remain outside, and by just slightly underbidding its prices, to secure for themselves a large market and high profits — but of course not for long. If the outside competition gets too strong, then the cartel has to break up. But of course it not infrequently occurs that *members* of a cartel try to get a larger market either by unfair dodges or by actual breach of contract. There are some who on these grounds regard all cartels as immoral, and in fact there is always a strong inducement not to keep to the agreements, and a number of rather irresponsible individuals give way to the temptation, get round the agreement in underhand ways, and reap increased profits. It is common to get round cartel agreements by giving additional weight or promising a special bonus, by not charging for packing or taking it back at such an excessive price that this constitutes a rebate on the purchase, by making out false invoices and the like. Thus unfair trade also takes place within the cartels, and is merely driven by them to take new forms. The reciprocal promise of orders also plays a large part in organized industries.

The restriction of independence, the subjection of the individual to the will of the majority, also involves other dangers. There is always the possibility that the producer's interest in his own works, his efforts in the direction of further technical advance, will be lessened, that the cartels will tend to be regarded as an institution for securing permanently high profits, while they cut out the inducement to economic progress which open competition ensures. According to our experience, this has

certainly not been the case hitherto; the producer still has an interest in cheapening his production, and in pre-War Germany the power of capital was always so great that if ever a cartel tried to keep up an antiquated method of production new competitors invariably sprang up. In fact, any increase of profit, in so far as this does not rest upon a *natural* monopoly, very quickly calls new competition into the field.

It is however quite conceivable that the private industrialist may lose interest in his works in consequence of the restriction of his independence by the cartels, and may be more inclined to hand them over to a joint-stock company — which the banks are always ready to promote. The tendency to the formation of companies and thus to increased influence of the banks in industry has been probably somewhat stimulated by the cartels. Also the complete abandonment of independence involved in amalgamation of firms in other firms is probably made more palatable where the way has been prepared by a cartel.

It may also be observed that where solidly constructed cartels, relieving producers of a great part of their *commercial* responsibilities, have been in existence for some time, the tendency towards bureaucratic administration is slightly increased. The most important decisions are taken at cartel-meetings jointly for the whole cartel, and this may easily result in certain bureaucratic features making their appearance in the individual concerns. This is particularly the case with the great joint-stock companies, and we shall have to discuss this question further in Part V, in dealing with the formation of concerns, where it naturally is of far greater importance. Here we shall draw attention to a further psychological effect of the cartels, of which the members are perhaps not often conscious, but which is of the greatest importance from the standpoint of the national economy: I refer to the influence which the cartels have on the general outlook of the member-firms, their views as to their relation to their competitors and their general position in the economic life of the nation.

The change of personal outlook, in the whole conception of the task of a firm, is brought about by a restriction of independence voluntarily submitted to by the firms themselves in their own interest. Even the loosest kind of cartel makes an inroad into the absolute autocracy of the firm in respect of its selling operations. Prices are fixed in common, or at least the other conditions of sale are regulated in common. Gradually the process goes further; each one is assigned a territory in which alone

he may sell; if necessary, each member is compelled to restrict his production in prescribed proportions, he is told how many days or how many hours of the week he may work, how many machines he may have running; if the common interest requires it, he must actually close down his works in return for compensation. In a large number of cartels the member-firm must submit to having the appointed expert penetrate from time to time into the inmost secrets of its works, finding out whether it has kept to the agreed restrictions of production, looking through all the invoices to see whether the agreed prices have been observed, convincing himself by inspection of the books that each of the member-firms has only dealt with the customers allotted to it, etc. Finally, we come to the closely-knit associations. Here the members are forbidden all direct communication with the customer, the orders coming in are distributed by a cartel-bureau; while, in the profit-distributing cartels, the firms only receive their percentage of the total profits paid out from the common pool at the end of the year.

Everywhere the system of keeping the whole production shrouded in secrecy, the careful concealment of everything from competitors in particular, is being replaced by a system of *greater publicity*, *vis-a-vis* the latter. The feeling of solidarity is becoming stronger than the idea of economic antagonism. When one observes the efforts made in many industries to bring about agreement, to find the most suitable form of cartel, to induce those who have remained outside to come in, to break down existing animosities; when one sees the time and trouble spent on holding meetings and drawing up regulations, and compares this with the state of things which obtained a few decades ago — when such common negotiations, in which the inmost secrets of firms are disclosed and discussed, would have been out of the question — one gets an idea of how the whole structure of the national economy has changed and to what an extent the cartels have altered the whole basis of capitalistic enterprise.

The above remarks, which have been included in this book since its second edition, i.e. twenty years and more ago, prove that I by no means underestimate the *change of structure* which has been brought about in our economic life by the cartels and similar organizations. But I must protest when a writer on industrial organization (Schmalenbach), pursuing these ideas further, suddenly discovers that we are in a period of transition towards a new form of economy, which he calls '*planned economy*,' and even asserts that 'it is almost true to say that a single phenomenon is

forcing us to abandon the old form of economy, . . . and to reconstruct the huge structure of our economic system: namely, the changing distribution of costs of production, and the relative increase of fixed charges.' That the increase in the proportion of fixed capital has been one of the causes leading to the formation of cartels is a fact which has been recognized for more than a generation (since Brentano), and has been often emphasized. The extension of the notion of fixed capital to cover fixed charges, the recognition that *circulating* capital, e.g., for the payment of wages, has become to a greater extent fixed, is not a consideration which is any way essential for the formation of cartels, and is most certainly not the exclusive consideration, as Schmalenbach represents it. Indeed his whole notion of our economic system as a 'structure' is entirely misleading. The economic system is not a building which has been consciously put up and which can be 'reconstructed' whenever certain individuals find it inconvenient, but a process set going and regulated by the individual's appetite for profit, and one which, generally speaking, works automatically. This principle has not been affected by the cartels nor even by the increasing number of public trading corporations, and none of those who keep talking of a 'new economic order,' whether they be socialists or not, have ever proposed any new principle of organization.

In spite of the restriction of their right of self-determination through the cartels, the decisive characteristic of the entrepreneur now, as ever, is essentially the desire of gain, even though in many of the big joint-stock companies this feature may be less prominent. Even the attitude towards labour has changed considerably, without justifying talk of a new economic order. The notion that the factory is just private property beyond interference from outside, as much as a dwelling or home affairs; the so-called patriarchal system deduced from this notion which treated the relation of employers to workers as one of master and servant — all this has, under the influence of the cartels, gradually given way to a different outlook. And if, even before the Revolution, recognition of the trades unions in principle was making progress, and collective agreements and even still more far-reaching agreements called 'alliances' were spreading, this was certainly due in large measure to the fact that the entrepreneurs themselves had developed the organization of their own common professional interests to an extent which would formerly have been considered impossible.

To characterize this tendency I should like to suggest that the cartels were a principal means of gradually eliminating certain *features of the family or domestic system* which still clung to the modern firm in spite of large-scale capital and joint-stock enterprise, and which showed themselves in the attitude of the employer to the worker, but notably in the relations of the individual employers to one another. The cartels, among other things, seem to me to have led above all to the emergence of firms from the shells of the domestic system, the origin of our modern productive system; and, combined with the retention of private ownership, the substitution of a public-corporation feeling for the old domestic tradition. To this the future belongs, because this represents the path of progress.

Thus the cartels prepared the way in a certain sense for post-War developments, which tend strongly to bring the various economic factors governing trade exchange into a closer relationship, by giving the workers and also the customers a greater say in the organization of production. This must be brought about mainly by self-help, which may then perhaps be assisted by the State through its power of regulation. Thus the workers with the help of their trade union and political organizations got the Works' Council Law (Betriebsräte) passed. This in its present form is perhaps still too much a product of the class war, and, in the fashion too common to-day, tends to overrate the value of making speeches and holding meetings instead of acting and planning; but without doubt it contains the germs of a useful and even necessary *organization*. You may call all this 'planned economy' if you like, but it involves no fundamental change in our economic order.

Chapter IX: Effects on the Expansion of Organized Industries.

One unfavourable effect of the cartels on a given industry must still be mentioned. This is a phenomenon which has shown itself the more clearly and frequently as the cartels have grown stronger — namely, that the formation of cartels is a strong stimulus to the *expansion* of production and especially to the entrance of new firms. In times of favourable trade, the cartels normally leave their members free to undertake extensions of their works, and they often expand their works excessively in the hope that the cartel will be able to provide them with work in less favourable times. It is indeed not uncommon for firms even in times of depression to build new works with a view to putting in an early claim to the cartel for an increase in quota, once the trade situation improves. The cartels then have often the greatest difficulty in finding a market for the greatly increased production. Severe restrictions on actual production are then required in view of the high quota figures which have had to be assigned to the new works, and many cartels, for instance the cement, pig-iron and spirit cartels, have had to be dissolved because their members had extended their works too much. Restrictions of production and the like are measures which can only be adopted after the damage is done; the cartels are, generally speaking, not in a position to prevent excessive expansion on the part of their members. The trusts are vastly superior to the cartels in this respect, since they are actual *owners* of the various undertakings and can thus exert an influence upon their expansion.

In the syndicates the struggles for *quotas* play the greatest part, both at the formation of the cartel and also at every prolongation of it, which mostly covers only

a few years at a time. This form of cartel affords a particularly strong stimulus to the expansion of works, especially where this involves a diminution of costs per unit of production. And if, as usually happens, the capacity of the firms considerably exceeds the quota assigned to them, *bargain-ing with quotas* begins, and with it the acquisition of quotas of the weaker works by the stronger. There is nothing that can be urged against this practice from the point of view of cheap production. But the mere fact that a quota is a marketable asset grants a special inducement even to the weaker works to expand capacity when they should properly be closed down, and makes the renewal of syndicates, as in the mining industry, a most difficult and lengthy proceeding. Finally, the sums paid for the quotas belong to costs which bear interest and funding charges.

It is true that owing to these conditions in the organized industries, the economic limit of capacity is often neglected in the important and much-discussed rationalization schemes of to-day. Individual producers 'rationalize themselves into having an excess productive capacity' (Schmalenbach), because they expect the cartels to find them a market, and perhaps still more because they know that, by doing so, they can get a high quota. These phenomena are therefore more a *result* of the cartels than a cause of their formation. That the cartels easily lead to excess productive capacity and to intensification of trade crises has long been recognized.

The springing up and rapid extension of works of firms *outside* the cartel is of course still more unfortunate for the industry. The more effective and the more advantageous for its members a cartel is, the more their profits rise under its influence, the greater, of course, is the stimulus to the foundation of outside firms. If these are taken into the cartel the difficulties outlined above arise. If they are left outside, then they generally have a tendency to a particularly violent expansion, since they hope, in times of good trade, by just underbidding the cartel prices, to capture a large part of the market, while, in times of bad trade, they have the advantage of not being subject to the cartel restrictions.

The setting up of new enterprises outside the cartel has frequently occurred, notably in industries which extract and manufacture the products of the soil, e.g., the mining and cement industries. Wherever any one imagines that a cement factory can be started and worked with low costs, such a factory is started, with a complete

disregard to the market position and prospects of existing producers. For this reason most cement cartels have had to dissolve after a short time or else to continue absorption of new works, with the result that the capacity of the individual plant has become less and less fully exploited. Since this has naturally led to increased costs, there has been a continual demand in these industries for an increase in price. The cartels attempt to justify this by pointing to their increased costs, without admitting that the elimination of competition and the high prices resulting from this have continually encouraged the formation of new plants. This is one of the most unfortunate results of the formation of monopolies, which rests on the fact that they have free competition continually latent in the background, and this can occur all the more easily where there is a cartel and cause severe over-capitalization.

In no industry has this tendency been more strikingly and disastrously evident than in *Potash*. But here State interference has been to a great extent to blame. It was formerly supposed that potash salts were only to be found in a very restricted area; fresh borings, however, have gradually revealed deposits capable of commercial exploitation over almost the whole of north-west and central Germany, and on the upper Rhine. Potash is therefore to-day, it may be said, a product which can be multiplied *ad libitum*. Whereas in the case of other products new works are generally not erected without some consideration of the conditions of supply and demand, it was supposed in the case of these products of the soil that they had some value in themselves independent of all demand — an error which was doubtless encouraged by the economic theory prevalent at the time. Thus new undertakings were erected without regard to the disposal of the resulting products. In consequence, this industry expanded beyond demand in a way which is perhaps unparalleled in economic history. But this result was largely promoted by the circumstance that the older works had long been combined in a very closely-knit syndicate, under the leadership of the two biggest producers, the Prussian and Anhalt States.

In 1879, when the first strong cartel in potash was formed, there were four undertakings, two belonging to the State and two to private firms. By 1886 three more were added to the number, and in the following twelve years another three, so that in 1898 the number amounted to ten. Then the 'potash fever' began, and by the end of 1901 ten, by the end of 1905 twenty-one new members had to be accepted.

In 1908 there were fifty firms members of the potash syndicate, and no less than 326 potash boring companies altogether. And as late as the year 1906, when the existent works were hardly employed up to a quarter of their capacity, the Prussian State bought the Hercynia Mines for the fantastic price of 30,000,000 marks, that is, it paid 30,000 marks for a share (Kux) on which only about 2,000 marks altogether had been paid up. People did not realize that such purchases and the maintenance of high prices by the cartel were bound to inflate enormously the already excessive promotion of new producing firms.

The syndicate had, it is true, in the 'nineties attempted to prevent the erection of new works by means of the so-called '*Protective Boring Agreement*,' the policy of which was to start a competitive boring wherever an outside producer started one. Two borings then took place side by side and whoever was the first to find the mineral got the field assigned him. But when at the beginning of the present century a new and cheaper method of boring revealed the existence of big potash deposits almost everywhere in Central Germany and in Alsace quite independent of them, this proceeding became impracticable. The number of potash works grew rapidly; the capital invested in the industry which in 1905 had only amounted to 370,000,000 marks, grew rapidly by 1908 to 536,000,000 marks, by 1911 to 1,000,000,000 marks, and in 1918 was estimated at about 1,500,000,000 marks. In consequence of the increase in the number of works the renewal of the syndicate agreement became more and more difficult. In particular, the big works which had been in existence for some time had no longer any interest in its prolongation; they would have made higher profits in open competition, when they would have been allowed to use their works to full capacity. When therefore at midnight on the 30th June 1909 the endless negotiations had still not quite reached a conclusion, the representatives of the Aschersleben group left the room and signed only a few minutes later contracts with the American consumers which had evidently long been prepared, by which they agreed to sell America great quantities of potash for many years to come at half the price ruling at the time.

A state of general competition now threatened, and though this would probably have been the best thing in the interests of national economy as a whole, the Government wanted to avoid it, as many of the newer and weaker works would have

been ruined or would have got into the hands of the Americans at cheap prices. Thus there was no alternative to a compulsory syndicate, which was formed in 1910 by the Potash Law.

The result of this law was what shrewd observers had prophesied; the already existent over-capitalization of the potash industry was intensified in consequence of the law to an alarming extent. In spite of all the restrictions placed upon the erection of new potash works, the number of members of the syndicate rose by May 1910, the date of publication of the law, to 68, by the end of 1912 to 112, and by the end of 1913 to 167. By the middle of 1916 no less than 207 potash works had received quotas in the syndicate's sales. Although the general conditions remained the same, the quota of the individual works had sunk in ten years to less than a quarter of what it had been, and yet in 1904 it was already less than a quarter of the real capacity of the works. An example of two works in which the technical conditions were in no way altered (e.g. there were no re-divisions of the field) is given to show how the quotas (shown in thousandths) kept on diminishing:

	1905.	1909.	1913	1916.	1920.
Burbach	32.27	21.83	11.599	9.3280	7.8416
Thiederhall.	19.31	14.76	6.448	4.6345	4.3570

Thus in 1914 they had to decide to tighten up the law by prolonging the prescribed waiting period, and imposing more onerous conditions for the separation of new works from old. Potash was only to be sold by the Sales Bureau. Further maximum prices for potash were fixed for the next three years; the subsequent increases in price were determined by the Federal Council after hearing the owners and consumers. A so-called Excess Production Tax was imposed on those firms which exceeded their allotted quotas.

The principal objection which can be made against this State interference with the potash industry, viz., that the enormous overcapitalization was by no means prevented but on the contrary made worse, is proved up to the hilt by the subsequent development — to the great damage of German industry. The sooner open competition had been restored, the more advantageous it would have been for German industry. It would have saved hundreds of millions which are now sunk

unproductively in this industry. But for the sake of maintaining for the moment the profit on its own works and bolstering up the weaker firms, the State over and over again took steps to get the syndicate renewed. Again and again it sanctioned the higher and higher prices which were necessary to keep going the works, which were only employed to a mere fraction of their capacity, on a more or less profitable basis, in spite of their enormous overhead charges. This policy has even now not been abandoned. To keep up prices, however, simply for the sake of maintaining in existence weaker works — works which were entirely superfluous for the satisfaction of the demand and had only been founded in an orgy of speculation — is not in the national economic interest.

From the recent development of the potash industry we may derive the general principle in cartel policy, that the State should not participate with works of its own in a monopolized branch of trade. First, because then its interests become too much bound up with private interests, which once organized in a cartel are in any case powerful enough. Second, because, by doing so, it gives private capital too great an inducement to invest in this industry. Such an inducement is already quite sufficiently provided by the mere existence of the cartel. The State by its participation strengthens this to an undesirable extent and increases the risk of overcapitalization. This state of things has been in no way altered by the ‘socialization’ of the potash syndicate, of which we shall have to speak in Part IV, Chapter XXVI.

About a dozen efficient works with a capital of perhaps 100 million marks could supply the whole demand; instead of this, there were even before the War almost 2,000 million marks invested in this industry — perhaps the most tremendous overcapitalization which has ever occurred in any industry. Unfortunately people have gradually come to realize what such a waste of capital means for the national economy, how the insufficient employment of the works tremendously increases the cost of production and leads to high prices and continual demands for still higher prices, which demands the Government concedes. After the loss of the exceedingly valuable potash deposits of Alsace the German world monopoly naturally broke down, and the already unfavourable situation of the German potash industry became still worse. In spite of the popular demands for the nationalization of the mines, it is no wonder the Government showed little inclination to take over the numberless undertakings of this hopelessly mismanaged industry, and so it had to content itself

for the moment with the 'socialization of the Potash Syndicate.'

But, even in the potash industry, compulsory amalgamation could not prevent the inherent tendency in individual enterprise to rationalize as much as possible management and administration. Thus there is at present an extraordinarily intensive movement towards concentration to be observed in the potash industry. This aims partly at the closing down of less efficient works, and is being regulated by the Closing-Down Order of 1921. But in part also the movement was merely speculative and was due to the purchases by company promoters and their banking associates who have for long been active in this industry, followed in their turn by a whole series of speculators. Potash finance and speculation has brought forth some of the most unattractive blossoms of our company finance and practice.

In the inflation period financial concentration had already gone so far that the two biggest concerns controlled between them more than half of the whole German production. The biggest is the Wintershall-Alexandershall concern with twenty-eight works, which, after absorbing the hitherto largest concern, the Deutsche Kaliwerke A.G., with its thirty works, and the Gluck-auf-Sondershausen Company with its ten works, and acquiring the predominant interest in the Ronnenberg concern with its nine works, now controls 40 per cent, of the German potash industry. In the Kaliindustrie A.G. it had built itself up a special holding company, and in the Kalibank A.G. a financing company of its own. In 1926 the Wintershall concern came in with about thirty out of ninety of its plants, in the form of an amalgamation of these with Kaliindustrie A.G., bringing its capital to 120 million marks. In 1928 it again increased its capital to 200 million marks with a view to acquiring new works.

In the meantime however G. Korte, the Managing Director of another big potash concern, Burbach-Krügershall, had bought a large minority participation of 391 Wintershall shares (Kuxe), the majority of which belonged to a Liebenwalde Mine in the hands of the chief directors of the Wintershall concern. Korte, after getting control of the important Gumpel concern, made the A.G. Kreuger-shall the dominating company of his concern, raising its capital from 91,000,000 to 125,000,000 marks; so that the Burbach-Kreugershall concern is now the second largest in the potash industry. From the amalgamation with Kreugershall only the Burbach Company and the two Baden mines, Baden and Mark-graefler, were

excepted, the State of Baden being financially interested in the latter two companies. There then followed an exchange of shares between the two big concerns, a number of the Wintershall shares being sold back to the Wintershall concern at a price of 117,500 marks, while a minority of 215 shares with special rights remains in the hands of an international group of financiers.

The third biggest concern in the potash industry is one which includes several of the biggest among the older works, Salzdettfurth, Westeregeln, Aschersleben and the Leopoldshall Chemical works.

The process of concentration in the potash industry has presumably not yet reached its conclusion; however, the transport advantages which some of the weaker works have in respect of supply to particular territories stand in the way of excessive concentration. Nevertheless the restriction of production to the few most efficient works, which are amply sufficient to meet even the possibility of a growing demand, is justified in principle, and if amalgamation into big concerns makes it possible to attain to financial stability, this ought not to be obstructed from a mistaken fear of 'capitalism.'

Of course no amount of rationalization can bring back the hundreds of millions uselessly invested in the industry, and the price of potash is still kept far higher than it need be were the best works exploited to their full capacity. It cannot be denied that in this industry the effects of the cartels have been overwhelmingly unfavourable.

The *cement industry* shows a development parallel to that in potash; here, too, to a very great extent we find new producers cropping up, which had to be taken into the cartel from a fear that the over-production which so often began to make itself felt might otherwise lead to dissolution of the cartel.

In *coal mining*, too, the expansion of production, both on the part of members of the coal syndicate and outside mines, above all, in the case of the Prussian State mines in the Ruhr and Saar valleys, has also been very considerable, in spite of the fact that the greater part of the coal-fields is already in firm hands. Production in the mines, members of the syndicate, had doubled between the years 1893 and 1904, and increased by as much again between that year and 1914. Nevertheless the extension of the mines was insufficient to cover demand in the boom years of 1899–1900 and 1906–07; in these years there was talk of a coal scarcity, which however was

certainly to some extent caused by scarcity of trucks. In 1906 the syndicate, in order to fulfil its obligations, had to purchase considerable quantities of coal in England. Were the sinking of new mines and the expansion of production easier than it in fact is in coal-mining, there can be no doubt that in these two periods of boom a much more serious expansion would have taken place.

It is, however, characteristic that barely eighteen months after this 'coal shortage' the mines were compelled to raise large quantities of coal for stock and sell coal cheap abroad simply in order, somehow or other, to keep the workers occupied. From this it must be evident that the cartels have not been able to *stabilize demand*. Fluctuations in trade are, in fact, so deeply rooted in the whole organization of our economic system, with its extreme specialization and its elasticity of credit, that they are not to be eliminated by a few cartels. We shall deal with this problem below in a special chapter (Part III, Chapter XVIII). Yet in spite of this there is no doubt that the cartels have had, in many respects, a stabilizing, moderating and reassuring influence on the industry. In the extraordinarily violent economic struggles of to-day combination is a great support for the producers. Had they to-day, as formerly, to struggle not merely *with* the customer over the price, but also to compete with one another *for* the customer, this would have meant such an increase of risk and perhaps in the end such losses as capitalistic big-scale industry could not have borne for long. The cartels provide greater security, give to firms a means of facing difficulties united, and render the economic conditions of trade, if not more stable, at any rate more calculable and therefore less risky.

All this is particularly true of the extremely difficult economic conditions ruling during the World War and since, and in some cases it has led to State compulsion being applied to prevent the dissolution of a cartel. But even before this, especially in the Rhenish-Westphalian coal-mining industry, the existence of the syndicate was already threatened by the movement towards concentration arising out of the cartels — the formation of gigantic undertakings which ceased to have any interest in the syndicate. The contract between the mineowners was due to end in 1915. The negotiations for its renewal, which were extremely difficult, both for the reason above mentioned, and also on account of the increase in number of outside mines, were begun as early as 1911. But since a renewal of the syndicate was impossible without participation of the Prussian State, as the largest of the outside interests, and

since its dissolution would have had most unfavourable effects both on the State mines and on the whole national economy, it finally proved possible in January 1912 to bring the Prussian State into the syndicate. But already by October 1912 the contract was denounced by the Prussian Minister of Commerce, who disapproved of the big increases of price which the syndicate was planning for 1913. In February 1914 negotiations were broken off in consequence of the insuperable conflict of interests between the coal mines pure and simple and the mines belonging to the iron and steel firms.

Then came the Great War. A dissolution of the syndicate, which in the first years of the War had proved invaluable for securing a rational distribution of production and marketing, had to be prevented. It was not to be expected that the members would agree voluntarily to this — internal dissensions and the preparations made by a number of members in anticipation of its dissolution were factors militating against it. Thus the Government passed the Compulsory Syndicate Law of 12th July 1915, threatening compulsory syndication, if the syndication contract were not renewed by 15th September 1915. Under this pressure there was formed, as is well known, at the very last moment, the so-called 'transitional syndicate,' and this was joined by the Prussian State with its Ruhr mines. The latter reserved to itself, however, the right to secede at any moment, which would then lead to compulsory syndication, and it demanded special right to influence prices. This agreement was due to terminate on 31st March 1917. But already by 14th October 1916 a syndicate contract had been definitively concluded, with participation of all the Ruhr coal mines including those of the State, to run till 1st April 1922. Ninety-three mining firms participated in this syndicate, including eighteen belonging to iron and steel works or interested in coal consumption. Here too it was State compulsion alone which made it possible to keep in the cartel all the new undertakings that had sprung up.

We shall speak of the later development of this syndicate at the conclusion of the present part of this work.

Chapter X: Effects Of The Cartels On Outside Producers.

Beside the influence exerted by the cartels on their members, they also influence outside producers. We saw above that the outsiders competing with the cartel often play a very important part. The advent of new firms outside of the cartel is the natural remedy provided by the economic system for the excessive exploitation of a monopoly position which is not granted by the State. But often when a cartel is being formed for the first time, there are several firms who prefer to remain outside in the hope of furthering their own interests.

Now every cartel, like every other combination aiming at monopoly, must evidently try to be as all-inclusive as possible. All possible steps are therefore taken to make the cartel as completely representative as possible. But usually this is not possible without the exercise of a certain degree of compulsion. In time a whole series of compulsory media has been evolved to ensure this.

The nearest one is to be found in the effort to force outsiders in, through fierce *competition* — impossible without a lowering of prices. Since however the main purpose of a cartel is to keep up prices, such a reduction can only be temporary. In America this method was employed with the greatest ruthlessness during the tariff wars between the railroad companies. There it was actually the case that in the competitive struggle rates were put down so low, that for a short time the companies not only did not charge for transporting certain classes of goods, but even paid the producers something for doing so. This goes on until the competitor has had enough, and either closes down altogether or comes into the cartel or the trust. In Germany too there have been cases of cartel members introducing by agreement ‘competitive

lines' of goods which are sold particularly cheaply in any market where the outsider competes. Thus the cartel of rice starch manufacturers for a long time tried to prevent the erection of a new factory; and the like has also been tried in the Swiss chocolate industry.

Another method of realizing the desired monopoly position is the *buying-up* of competing firms. Though this method is mainly employed by the trusts, it has been not infrequently used by the cartels too. The sugar syndicate, the wire syndicate, the carbonic-acid syndicate, the cartel for rice starch, various cement cartels, the Rhenish-Westphalian brown coal cartel, the copper syndicate and others have all adopted this practice, have sometimes formed common pools for the purpose, and often closed down the rival works after buying them up. The potash syndicate maintained for this purpose the above-mentioned Preventive Boring Association which spent millions in competitive borings against the expected competitor so as to get the assignation of a new field before him. Still, as we have seen, this device was impotent in the case of the potash industry to prevent excessive expansion. In recent years it has become more and more common for the closely-knit cartels to spend jointly large sums for such purposes; in doing so they approximate more and more to the American trusts, which as vast unified capital organizations find it simpler to adopt this means of fighting competition.

Thus in the last few years almost all the cement cartels have often spent very considerable sums, partly to buy up 'outside' works, partly to prevent new ones being built; often tried to suppress competition by means of drastic reductions in price. Not infrequently again a 'raw material blockade' has been attempted, through the buying up of quarries or sites, or a 'debarring' from all means of transport.

The crop of new competitors was strong too in the case of the Tube Combines, and both the German and the International tube syndicates have spent millions in buying up such works (the Niederrheinische Stahlwerke, the Beuteler Werke, the Eschweiler-Ratingen Metallwerk A.G., Duesseldorf, and a Dutch rolling mill).

The main weapon employed by the cartels to force outsiders to come in, is the so-called 'exclusive trading' clause, with customers. The latter must pledge themselves to buy the products covered by these contracts only from members of the cartel. Similar contracts are also frequently made with *raw material suppliers*, who

undertake not to sell to any manufacturer outside of the cartel. The means used to secure such contracts is the threat of the *boycott*, the threat, that is to say, either to buy nothing at all unless the suppliers undertake to sell exclusively to cartel members, or to sell nothing at all unless the customers undertake to buy exclusively from the cartel. Or again, it is agreed that dealers who will not undertake to deal exclusively with the cartel shall only be able to buy at higher prices — at the so-called ‘protective account’ price, the difference between it and the normal price being returned to those who undertake exclusive dealing; or a special rebate, the so-called ‘loyalty rebate,’ is made to dealers who give such an undertaking and keep to it. The deprivation of this rebate is then a punishment for not keeping to the agreement. These are all cases of *price-discrimination*. Between it and the boycott there is only a difference of degree and not of kind, and when discrimination is sufficiently great it has exactly the same effects as a boycott.

Thus the soap manufacturers’ cartel obliged the producers of oils, tallow and soda to refuse all deliveries to outside soap factories, and thus forced the latter to enter the cartel. The same policy was carried out in the eighties of last century by the explosive factories in respect of their raw materials. The combine of the Steel Bottle Manufacturers compelled its own members to buy their steel tubes only from those members who produced them, and not from outsiders, and forced the member tube-factories correspondingly not to sell their semi-manufactures to outside bottle factories. The cartel of the match factories in 1909 boycotted the merchants who bought from an outside factory; the German Booksellers’ Exchange closed out booksellers ‘from the facilities and arrangements of the Booksellers’ Exchange.’ It closed out, for example, the big stores and the Universities’ Protection Society, which had not kept to the discount terms that had been laid down. The Bavarian-Saxon Manufacturers’ Association, which includes various textile associations, laid down for its subsidiary associations general conditions of trading, according to which they were to give a loyalty-discount of 20 per cent to dealers undertaking exclusive trading.

In the opposite direction, there is the boycott or *embargo on purchase* as well as the embargo on supply which we have been discussing. For instance, in 1910, we find the boot-and-shoe wholesalers boycotting all shoe factories which sold to

outside wholesalers, or the Leipzig Tobacconists' Association boycotting the Association of Dressers and Dyers, till finally the latter agreed to conclude an exclusive contract. Such agreements are now extraordinarily common.

In most cases there results an *exclusive contract*, an agreement for exclusive trading between associations linked up with each other. On both sides are organized the members of some trade which stands in intimate relation to another trade. Where the buyers' association undertakes to buy only from the cartel of the raw material or semi-product manufacturers, and the cartel agrees to supply only this association and not any outside firms who might thwart the cartel's policy, this is called 'exclusive trading,' and affords the cartels a most powerful form of mutual support. Thus the coke syndicate agreed to sell only to the members of the pig-iron cartel, not to outside ironworks, thus securing the continuance of this cartel; the iron semi-product association refused to sell to any one outside the wire syndicate. The latter agreed to exclusive trading not merely with the wire-nail syndicate, but also with the steel-spring and wire-rope cartels. The association of envelope manufacturers undertook exclusive trading with the association of envelope-machine manufacturers, and the glass-bottle cartel with the glass-stopper and cork cartel, the raw-pulp cartel with the roofing-pulp cartel, the transparent glass manufacturers' cartel with the lamp-factory cartel. The same procedure is common in the textile industry too, for instance between weavers' cartels and the dyers' cartels, textile machinery cartels and finishers' cartels, and between silk manufacturers and clothing manufacturers.

But it is in the case of the *merchants* above all that exclusive trading occurs most often. Thus the clothing material firms, the silk and velvet manufacturers and their respective wholesalers mutually insure each others' cartels in this way, and so do the blouse and overcoat manufacturers and their wholesalers, the salt mines and the salt wholesalers, and the pneumatic tyre factories and the automobile dealers. Here too may be mentioned the device by which the cartels pay export premiums to *combines only*, thus securing that cheaper raw material prices for exported goods only benefit members of combines. It is often the producers' cartels that organize the merchants, especially wholesalers, into cartels, restricting them by means of exclusive trading contracts to a certain fixed number, all the other merchants being thus reduced to so-called 'second hand' dealing. All this is done simply to increase the security of their

own cartel and render the entrance of outside competition difficult. Thus the Coal Syndicate organized the coal merchants and the Steel Works Association the girder merchants.

Severe penalties are often arranged for not keeping to the exclusive-trading clause. But frequently the supply to or the purchase from outsiders is not absolutely forbidden, but, as already mentioned, the so-called loyalty-discount is granted instead, often in addition to a special discount according to the quantity supplied. By these methods competition is made so difficult for outsiders that they are obliged either to close down altogether or to come into the association.

All these devices connected with the Exclusive Contract have been greatly developed in recent years. They are of the greatest importance in the *textile* industry, where the manufacturers by forcing the buyers, and in particular the wholesalers, to grant exclusive trading, have overcome the difficulties of cartel-formation and have succeeded in concluding solidly organized cartels in spite of having to dispense with syndicates, which, generally speaking, are unsuitable for this industry, with its very great differences of quality. Since the War, in consequence of the increasing ruthlessness of the economic struggle, such obligations have become more general and often even more severe, and the many and various instances of the misuse of power by the party that is for the time being economically the stronger, are undeniable. The general shortage of goods forced the buyers to give in to any and every demand of the sellers. But the same is true of these means of maintaining monopoly as was observed of the formation of monopoly in general — in themselves they have nothing to do with ‘capitalism’; the workers use precisely the same methods when they are in a position to do so in order to maintain the power of their organizations and to strengthen their influence.

I described ‘exclusive combine trading’ in my book of 1899 on domestic industry, but above all in my inaugural lecture, ‘Die Allianzen’ (Jena, 1900), and I drew attention to the ‘exclusive contracts’ at the Berlin Jurists’ Congress of 1902. Both expressions have since come into general use. In 1912 they were examined thoroughly from the juristic point of view by F. Kestner in his fundamental treatise, *Der Organisationszwang*, re-edited by O. Lehnich in 1927. It is customary in jurisprudence to describe the contracts between the members of a cartel as effecting

an 'internal compulsory organization,' those between raw material producers and buyers as affecting an 'external compulsory organization.'

In the case of this external compulsory organization, however, it is important to distinguish its effects in two directions — to distinguish the effects on the parties to the contract, buyers or producers of raw material, from those of the outsiders whom the contract aims at damaging. For the latter such a binding of the buyers or raw material producers to the cartel may involve serious damage or even ruin, since they are deprived either of customers or of raw material or of workers. Thus the control exercised by the cartel may degenerate into a definite terrorism. But though, for this reason, courts of law are inclined to protect the outside producers, yet from a strictly economic point of view it must be observed that these measures on the part of the cartels are not invariably so unjustifiable or the outsiders so entirely deserving of protection. A producer often, in fact normally, only stays outside a cartel because he hopes to make bigger profits from so doing, and he is usually not mistaken in his calculation. An outsider can secure a large market simply by undercutting the prices of the cartel; he profits by the regulation of production and the price-fixing of the cartel, without contributing his share of the sacrifices by which these advantages to the members have had to be bought. If every one were to act in this way the regulation of a trade by means of a cartel would naturally be impossible; and it is thus, generally speaking, quite justifiable for the cartels to attempt to prevent individuals who stand outside from getting greater advantages than they do themselves.

It is the *parties bound* by these devices of the cartels — the buyers and the producers of raw material, who by the terms of the contract are restricted to exclusive trading with the cartels — who are really in far greater need of protection than the outsiders. The former may have to give up old-established goodwill, if the outsiders are not in a position to supply their whole demand, or if they are not in a position to keep the producers of raw material fully occupied; so that this practice of the cartels may lead to a serious restriction of their freedom of action. But, on the other hand, it would be going too far to maintain that the consumer is to have the right to buy from whom he will, that is, that any agreement or undertaking to buy goods from certain producers only would be illegal and inadmissible.

Such undertakings of this kind are indispensable under the present economic regime. It is to be observed that all these agreements for exclusive trading have an important *organizing tendency*, which should not be denied the national economy through legislative restrictions. This is the same type of contract as that on which the so-called *wage-rate associations*, which have proved invaluable both to employers and workers in so many trades, are based. By this type of contract the workers agree to work only for employers who have recognized the wage-rate and the employer only to employ workers who keep to it. The same kind of contract has led to the interesting English 'alliances,' in which rate associations are supplemented by a sliding scale of wage-rates to enable the worker to participate by increases of wages in the increased prices realized by the cartel. It is a kind of contract which is employed wherever economic persons dependent on one another and engaged in exchange with one another, instead of fighting each other, attempt to conclude peace and lay down agreed rules for their future transactions.

But there can be no doubt that 'compulsory organization' has led to just as many excesses as has extreme individualism, both in respect of persons standing outside the organization, whether these are firms or workers, and of the buyers and sellers who are forced to conclude these exclusive contracts. Here the legislator and the administrator of justice find themselves faced with an extremely urgent and extremely difficult task, of which we shall speak further in Part IV.

Chapter XI: Effects On The Workers.

Finally, to the members of the cartel of an industry belong the workers in the industry. It has already been observed that, strictly speaking, it is through the Employers' Associations, not through the cartels, that the firms attempt to influence directly the conditions of labour; also that cartels often facilitate the formation of such associations (and vice versa); and, finally, that the Employers' Associations often include a much larger class of undertakings than could ever be formed into a cartel. The effects of the Employers' Associations to-day present a vast economic problem in themselves; this is clear from the fact that at the beginning of 1914 there were 3,670 employers' associations within the German Empire, 2,361 of which stated that their 167,000 members employed 4.8 millions of workers. It is impossible here to go into the position of these associations. But the cartels, too, influence the conditions of labour, in spite of the frequent assertions of the organised employers to the contrary. The fact that the text of many cartel agreements expressly precludes the cartel, as such, from dealing with questions of labour obviously does not prove that cartels have no influence on labour. True, such effects of the cartels are often hard to discern. Still there can, for instance, be no doubt that closely organized cartels of the employers make it easier for the workers to obtain a rise of wages. Where the firms are in a cartel, they are more inclined to concede the workers higher wages than in a state of free competition, because they find it easier to pass the increased costs on to their customers by charging higher prices. The workers will therefore, generally speaking, find it easier to impose higher wages upon organised firms, and it is in their power, at least if they can form strong trades unions, to

demand wages increasing with the cartel's prices, i.e., a '*sliding wage-scale*.' There can be no doubt that the generally unfavourable view taken of these sliding scales is bound to be considerably modified wherever well-organized cartels exist and hold up prices in times of depression. After the Revolution it was even at times possible to speak of '*reversed wage-scales*'; in many branches of trade the workers, not the consumers, were the deciding factor in the fixing of prices, and prices were fixed to correspond with the wages demanded, not wages to correspond with prices. It was merely in accordance with the demands of social justice that the governments of that time, over which the Social Democrats exerted a considerable influence, showed themselves so complaisant to the wishes of the concerns wherever, as was the case with most of the important commodities, they had some say in the fixing of prices. At any rate, they made no efforts to comply with the demands of the radicals and eliminate altogether, by means of continual increases of wages, that capitalist's profit which according to Marx merely results from the exploitation of the workers, and so in the end bring the system of production to complete collapse. The saner elements among the workers realized in time that they were not yet in a position to take over the whole organization of production themselves. But the result of this was that the workers in their trades unions which had suddenly attained to such tremendous economic and political power, and the employers in their cartels, were found both pulling on the same rope and combining for the 'exploitation' of the consumers, among the foremost of whom was always the State itself. Nowadays, at any rate, we frequently find that wage-demands are the motive force in the successive price-advances effected by the cartels, and the wages frequently increase faster than the prices. It is clear that under conditions such as these, sliding scales, profit-sharing and the like, have no great interest for the workers. In many trades in which there are solidly organized cartels, especially, for instance, in coalmining, it would be quite feasible to have a sliding wage-scale; but the trades unions nowadays prefer to fight for the wage which is the highest possible at the moment, by giving notice to terminate their wage-agreement.

There can be no doubt that wages in the organised industries increased considerably in the decade before the War, and that this movement was prolonged into the War itself. Before the War it was generally recognized that although in many

organised industries the prices of the products rose faster than the workers' wages, still their real wages, namely their purchasing power in terms of commodities, did rise in some degree.

The following figures for wage conditions in the principal mining district of Dortmund, which practically covered the territory of the syndicate, are given for the period of the syndicate's life before the War:

Output and Wages in the Principal Mining District of Dortmund
in Millions of Tons and Marks

Year.	Output.	Wages.		Wages per Ton of Output.	
		Wholetime Workers.	Piece Workers.	Wholetime Workers.	Piece Workers.
1893	38.6	134.6	110.6	3.49	2.86
1903	64.7	298.9	246.2	4.62	3.81
1913	110.7	672.2	554.5	6.07	5.01

It is not easy to compare wage conditions in the Ruhr coal mines before and after the War, since quite apart from the diminution of purchasing power of money, the social insurance premiums paid both by worker and employer have increased quite considerably (as have also the advantages derived from them by the worker). In any case wage statistics show that from 1925 to the beginning of 1929 the wages of a hewer increased by 24.71 per cent, the wages of a general worker (assuming both to have three children) rose by 26.56 per cent, whereas the corresponding increase in the cost of living index was only 9.55 per cent. The increase of price Voted by the National Coal Council in May of 1928 (vide Table I, p. 53) was not commensurate with the rise of wages during this period.

Among the advantages of the well-organized cartels must be reckoned the greater *stability of wages and of work* which they bring about. The solidly organized cartels, in the iron and coal industries for instance, attach great importance to the latter, not merely for the sake of the workers, but above all in order to secure the fullest possible exploitation of their works and a good class of worker. This point of view is of great importance in the textile industry, which has great difficulty in getting suitable workers. But the cartels are able to ensure stability of employment to a much

greater degree than individual undertakings can. In general, of course, and in normal times the level of wages in the case of the cartels too depends on the combined effects of marketing conditions in the particular industry and especially of the condition of the labour market.

Cartels or no cartels, the actual fixation of wages, like all price-formation, depends on *bargaining power*. It cannot be denied that the modern development of large-scale business and its organizations has often worsened the position of the worker, as may be seen from the unfortunate results for them of many of their strikes. Now that the concerns have substituted trade associations and cartels for their former state of isolation, it has evidently become easier for them to combine *against the* workers. Even without any employers' associations — which are the real fighting organizations — being formed, it is easy enough for various arrangements to be entered into by the firms with a view to controlling the conditions of labour. Black lists are all the easier to arrange for, and attempts to entice away each other's workers — the competition for workers — can be prevented.

The development towards bigger and bigger firms, towards gigantic undertakings, the product of amalgamation and fusion, which as we saw has been promoted by the cartels, has also to a great extent worsened the position of the workers and strengthened the forces of the firms. Thus about 1900 the closing down of a number of small mines with the unemployment of workers and the damage to many communes consequent upon it led to violent attacks being made on the coal syndicate. A number of big undertakings had acquired these small mines solely for the sake of their quota in the syndicate, closed them down and produced their quota of coal cheaper from their own pits. In spite of the obvious hardship for the workers and the communes which this proceeding involves, it must be remembered that in a state of free competition these small mines would have been ruined long before. The most that can be said is that in that case the closing down and the dismissal of the workers would have been less sudden and easier to foresee.

At the present day, too, in the efforts that are being made towards rationalization with its attendant fusions and closing down of works the question of the fate of workers and salaried employees is naturally very prominent. Here, too, cartels and concerns are in a better position than single enterprises to avoid extreme hardships,

to spread the necessary contraction over a longer period of time and the like. Also, as is well known, political interference by the government in these cases goes much further than it used to do.

It may easily be understood that the development of the modern giant undertaking which we are familiar with, above all in the mining industry, but also in the electrical and chemical industries and in banking — and in the railway companies of other countries — increases the power of the employers over the workers. If one works is stopped by a strike, this can to a large extent be made good by the others, the financial damage of the strike is much more easily borne and the undertaking can stand the struggle for a longer period of time. In addition the cartels can take up the execution of orders when a strike breaks out in the works of one of the members only. Or as the coal syndicate has done in the case of a strike of miners, they can organize the joint delivery of coal from abroad. In general, the cartels maintain the power of the firms over the workers in times of labour disputes by excluding competition between the firms, which is particularly disadvantageous to them at such times; and they also make it easier for them to insist on having the ‘strike clause’ in their contracts with customers and sellers of raw material.

As against this it cannot be denied that the organization of the firms has given a new impulse to the development of unions of workers; also that the firms, through their experience of the working of their own combinations, have learned to have a better understanding for the unions of the workers. But it is true that the old patriarchal point of view, according to which the firm will only deal with *its own* workmen and refuses to recognize the representatives of the united workers of the whole trade, was only really abolished at the end of the War and the revolution which accompanied it.

It is naturally not our task here to discuss the whole present situation of the workers in large-scale enterprise, a situation which has been completely altered since the Revolution. It is however permissible to observe that the changes in the balance of economic and political power increased the realization on both sides that they were each dependent on the other. After a short while little was heard of the idea of excluding the private firm from most fields of economic activity. That realization is leading now to the formation of *joint organizations*, that is, to the greater

participation of the workers in the properly *economic* and not merely technical side of the firm's business. Although this cooperation will be realized primarily *within the individual undertaking*, on the basis of the *Works Council Law*, still the participation of workers' representatives in discussion of business questions, which will be taken more and more outside the individual firm, through the organs of the combine, is very desirable. I have always advocated this for the *cartel commissions*. But provision might very well be made within the cartels themselves for a worker-assessor, or a delegation of workers' representatives, which might take part in all negotiations in an advisory capacity. In all the statutory cartels organized by the State this plan has already been realized. It is to be hoped that when German industry once more enters upon a quieter phase, that the opposition between workers and employers which is to-day so acute will take on milder forms and to this happy result the new organizations aiming at interesting the workers to a greater extent in production ought to contribute.

Now, as formerly, it is the *tariff contracts* which play the largest part in bringing out the mutual dependence of workers and employers and of their respective organizations. First of all the firms agree to employ only workers who abide by the tariff, and the workers not to work for any employer who does not recognize the agreed conditions. Even in such an agreement there is a factor of 'exclusive trading' — the elimination of competition *with the help of the opponent*. If, as normally, there are organizations on both sides, 'exclusive combination trading' develops here too, of the kind we found existing between combinations of employers. A contractual position of this kind results in each of the two combinations actually guaranteeing the monopoly position of the other, the trades union by not working for undertakings which are outside the firms' combine, and the latter by employing only members of the trades union. This, as I pointed out in my inaugural lecture of 1900 mentioned above, occurred for the first time in 1872 or 1880 between the merchant-employer and the domestic worker in the domestic knife and scissor grinding industries of Solingen and Remscheid, further in 1887 in the East Swiss Lace Combine, in the lace industry of the Vogtland, in the Bavarian mirror-glass, the Franconian fine gold-beating, the West German roller-engraving, and the Bohemian glass-button industries. Above all the agreements in the book-printing trade belong to this chapter.

The employers in these cases actually come to have an interest in there being strong unions of workers, because the agreement, exclusive trading, which they have made with these unions, secures the position of their own cartel and makes it impossible for outside concerns to employ union labour. The more completely all the workers are included in the union, and the more secure this is (as in the case of highly skilled workers) against the appearance on the scene of new competing unions, the safer is the monopoly position of the cartel.

Here and there the final step has been taken and the worker given a direct interest in the profit of the syndicated industry. This is the fundamental principle of the English 'Alliances,' the most intimate form of association between employers' and workers' organizations, in which besides the mutual obligation to deal with each other exclusively there is the sliding scale, the automatic regulation of wages in accordance with the prices fixed by the cartel. These, it is true, have not managed to maintain themselves in England, but none the less the trend of development is moving slowly in the direction of a closer association between employers' and workers' associations. In the case of the roller-engraving works in 1907 we had an instance of the trades unions actually helping to bring an employers' cartel into existence, since the workers saw in such a cartel the only possible means of obtaining better conditions of labour. That, as the result of all this, a new struggle between producer and consumer will take the place of the old struggle between firms and workers, and that the protection of the consumer will be the great central problem of the economy of the future — this is what we have been urging for the last twenty-five years and we find that the most recent developments have rendered this problem even more acute.

The view which was formerly widespread in socialistic circles that the cartels were merely a step in the direction of socialism, i.e., of the nationalization of the means of production, is certainly not true in the sense in which it was then understood. The cartels — unlike the trusts, which are great capitalistic organizations, which are in fact each *one* huge undertaking — are not essentially capitalistic formations and therefore not something which the socialist state can 'expropriate.' But it is quite conceivable that certain measures which are quite wrongly termed 'socialization' may be taken in connexion with them, measures which on the lines of the statutory

Robert Liefmann, *Cartels, Concerns and Trusts*, 124

cartels under State supervision use these formations with a view to securing for the State a greater influence upon the economic conditions of important industries. Of these we shall speak at the end of this book.

Chapter XII: Effects on Technical Progress and Rationalization in Industry.

There is still one question to be discussed: What are the effects of the cartels on economic and technical progress? An opinion has sometimes been voiced to the effect that the cartels aim at maintaining the security of existing enterprises, at preserving the present organization for production and obstructing the introduction of more effective systems. We have however already seen that the individual firm's interest in its own profit remains powerful enough even in the cartels to spur it on to make technical progress, and my observations of German economic life over a space of ten years lead me to conclude that there is absolutely no sign of stagnation under the influence of the cartels. It could often be remarked that cartels, far from obstructing economic progress, were in some of the most important German industries actually a principal cause of the rapid economic development which has characterized the last decades. It appears that the cartels, which at first sight seemed destined to keep the weaker and smaller undertakings alive, have on the contrary in those industries in which they are most developed given an extraordinary stimulus to the formation of the so-called 'bigger firm,' the modern giant undertaking.

The cartels have furthered this trend towards the 'bigger firm' in two ways, by inducing either fusions or integrations. The former consist in the amalgamation of a number of *similar undertakings* to form one big one, generally through the absorption of smaller works by bigger, the latter in the co-ordination of *various stages of production*, which has hitherto been normally carried on by independent

firms, to form one single big concern. We shall consider the fusions first. During the first ten years of the present century the largest coal-mining enterprises, the Gelsenkirchener, the Harpener, the Hibernia, the Nordstern mining companies, etc., each absorbed quite a number of small mines. Their object was to acquire the participation quota in the coal syndicate which these mines possessed, so as to increase their own quota and so improve their own productivity and reduce their costs of production. To some extent the mines so acquired were profitable enterprises; in this case the purchase generally aimed at enabling the firm to produce all the various grades of coal, or for certain technical reasons, e.g., the rounding off of the mine property and the like. But frequently they were tiny mines with high costs of production which, in a state of free competition, would have closed down long ago, and whose only valuable asset was their quota in the coal syndicate.

The great damage resulting to the workers and to the communes affected by the sudden closing down of these mines after they had been bought out has already been mentioned. But from an economic point of view their closing down must be judged beneficial, since the same quantities of coal could be produced cheaper by the big companies. It is true that open competition would have suppressed the small mines and would have worked just as effectively for the expansion of the bigger and therefore more efficient firms, but the suppression of the small and weak mines would have been all the more ruthless and would only have taken place after a long-drawn-out struggle involving heavy losses for all parties. Exactly the same has taken place in the bottle industry, where the big works absorbed the little ones with a view to increasing their own quota in the syndicate and exploiting the Owens bottle-making machine to better effect. In the same way in the potash industry, the cement industry and many other industries the efforts made to increase the participation-quota have encouraged amalgamation.

Of even greater economic significance is the second modern form of large-scale enterprise, which we have called 'Integration.'

The progress made by the idea of *Integration*, the co-ordination of various interdependent stages of production to form one unit, is easily explained. Formerly, when the various stages of the productive process were still in the hands of different firms, each of these had to add its own profits to the price of the intermediate

products, thus rendering the final product very dear. As against this system the integrated concern represented economic progress, by saving these intermediate profits; it was thus able to produce more cheaply and was better able to withstand competition. A further cheapening of production resulted from the fact that costs of transportation could be reduced, and that the middlemen, who often managed to insert themselves between the different stages of production so long as these were in the hands of separate firms, could be eliminated and with them the middleman's profits. If in spite of this, integration formerly made but little progress, this was due to competition among the producers of raw materials which kept prices at the lowest possible level. Thus production of raw materials by concerns themselves for their own use offered little economic advantage, except perhaps in short periods of boom. It was attended by considerable risk, since the producer of the finished article was always afraid that he might be able to buy his raw material more cheaply than he himself could produce it, and thus be at a disadvantage as against his competitor. There was, further, the danger that at times when the situation in the finishing trade was unfavourable, he would have no market for his raw materials, so that his production of raw material would always be at the mercy of trade conditions in his particular finishing industry, and he would run a double risk of losing his capital.

In consequence of these considerations there were only a few integrated undertakings, even in the iron industry, which is their main field at the present day; and, even in these cases, integration was by no means always advantageous for the undertaking as a whole. But the whole situation was altered, at a stroke, it is fair to say, when open competition was replaced by raw material *cartels*, and when these, the coal syndicate especially, kept the prices at a high level. All smelting and steel works that possessed their own mines, were now able to supply their own coal more cheaply than they could buy it, and in the same way the steel works could cover their own pig-iron requirements more cheaply than if they bought it from the pig-iron syndicates. However, it still took several years before people generally realized how advantageous it was for the iron works to have their own mines. But when in the boom of 1895 the producers of finished goods only had to suffer from a continual lack of raw material, integrations began in 1899 to appear in larger numbers, and even after the beginning of the depression they still proved very valuable, since the

coal syndicate was renewed and the prices kept up. Partly in consequence of the demand for mines on the part of integrated concerns, and partly of the high profits which the coal syndicate enabled the mines to realize, both mines and coal-fields rapidly increased in value. Even during the War huge prices were paid for coal mines and coal-fields. Many of the big enterprises invested a part of their vast profits in this way.

The movement also extended to other branches of the iron and steel industry. Just as the smelters had tried to get mines, so the finishing branches of the iron and steel industry, steel works, rolling mills, engineering shops tried to get hold of blast furnaces of their own, so as to be independent of the pig-iron syndicates. Other finishing works, such as the wire-drawers, tried to avoid paying the high prices demanded for semi-manufactures by producing these products themselves. In fact the tendency towards integration has gone so far that the biggest German firm of locomotive manufacturers, Henschel and Son, of Cassel, has acquired a smelting works and a coal mine of its own. Our big chemical works, and even sugar factories, electricity works, and even a weaving mill and a rubber factory possess coal mines of their own.

But integration does not always result from the incorporation of already existing enterprises, it is, on the contrary, more usual for the firm incorporating them to build *new works*. In the big iron and steel works of to-day every kind of iron and steel product is manufactured, rails, girders, tubes, shipbuilding material, bridges, machines of every kind, even completed railway trucks, all by one and the same firm. Even where the raw material, e.g., the iron, has to be bought from a different firm, possibly a foreign firm, the principal concern often has a financial interest in the latter.

The movement towards integration naturally reacted on the *raw material cartels* in their turn. Both in the period preceding the expiry of the coal syndicate in 1903, and during the long-drawn-out negotiations for its renewal in 1915, and then again in 1924 it proved difficult to arrive at agreement owing to the impossibility of getting a number of big smelting works' mines to come into the syndicate. And this was necessary since these mines, particularly in times of depression, threw large quantities of coal on to the market and rendered the control and regulation of the

market by the coal syndicate difficult. Whereas the simple coal mines had to work under severe restrictions in consequence of the great expansion of production, the mines belonging to the iron works were able, through increase in the production of iron, to find profitable use for much larger quantities of coal. In consequence of this it was not merely the iron works that had an interest in annexing coal mines, but in addition the big coal-mining companies attempted to integrate iron works in their business in order to make better use of their coal. While the mines annexed to the big iron works were commonly called 'smelting mines,' people now began to speak of 'mining furnaces' (Hiittenzechen-Zechenhütten). Thus we find the biggest German coal-mining company, the Gelsenkirchener Bergwerksgesellschaft, annexing two big iron-working companies, the Aachener Hüttenverein Rote Erde and the Schalker Gruben- und Hüttenverein, both of which were already integrated works. One after another most of the big coal mines combined with iron works, so that to-day of the three big mining companies the Harpener Bergbaugesellschaft alone is a purely coal-mining firm.

There can, however, be no doubt that the development of these big integrated enterprises brings with it the danger of an excessive expansion of production, a danger which is latent in all such changes of economic organization. As at the same time most of the other big steel works had been making large extensions, the danger of over-production was already acute before the War; and this involved new difficulties for the continued existence of the cartels and made the breaking out of fresh competition between the big concerns a possibility, at least in some branches of the mining industry. The conclusion of peace, the disastrous consequences of which cannot be described here, fundamentally altered the whole basis of this industry, and led the Gelsenkirchener Company to sell up its whole steel works.

In any case, this development is but one more proof of the old assertion that an economic principle when driven to extremes gives way to the opposite principle. Cartellization in the mining industry, by inducing integration, bears in itself the seeds of fresh competition, and develops of itself a corrective which will prevent the formation of the extreme kind of monopoly predicted by socialism.

In the iron and steel industry of to-day the tendency towards integration in both directions is still very widespread. Thus the Mannesmann tube works incorporated

some big coal mines in order to make themselves independent of the raw material cartels, and recently erected a big new steel works of their own near Huk-kingen. In consequence of this Friedrich Krupp A.G. lost its biggest customer for semi-manufactures, and wanted to extend its own finishing activities by building a tube-rolling mill of its own, tubes being, in consequence of the international cartels and the great expansion of the market, the most profitable type of product. The other big concerns tried to prevent this project and the over-production of tubes which it would have meant for them, by compensating Krupp in some way or other, and the negotiations over this are still in progress at the time of writing.³⁰ Thus the cartels are partly themselves to blame for this expansion of production, but on the other hand it is the still closer form of union which often makes it possible to prevent this excessive expansion.

In the iron and steel industry the tendency towards integration is much accentuated by technical considerations, in particular the employment of the blast-furnace gases to work the finishing machines which this renders possible. But, already in the slump of 1908, the integrated undertakings found themselves unable to restrict their production of pig-iron or coke, since they would, in that case, have had to close down either their coal mines or their finishing factories. Enterprises of this kind are therefore dependent to a peculiar extent on continuous running and stable economic conditions.

Thus integration can go too far, and it would be quite mistaken to suppose that its opposite tendency, specialization, is not equally often attended by economic advantage. Here, however, agreements among producers for delimiting their respective branches of production may help. We have already spoken of the so-called 'standardization combines,' which aim especially at greater rationalization of management. These, it is true, are more akin to the professional associations, but the cartels render the enforcement of these agreements easier and give the producers a greater sense of security.

In other branches of industry the integration of hitherto independent stages of production has not yet achieved the same importance as it has in the iron and steel industry. Only in a few industries is it the case that the maker of a finished product requires such large quantities of his raw material that it pays him to erect works for

his own supply. Or it may be the case that the 'finishing' manufacturer requires something that is a joint product, and cannot possibly run the whole industry which is bound up with it on his own. Thus the big chemical factories cannot possibly run enough coking plants to supply themselves with benzol. Again, the erection of finishing factories is frequently hindered by the fact that the finished products are not cartelled and thus do not fetch such good prices as the semi-finished. Still in the chemical and electrical industries there are big integrated undertakings including the most varied stages of production, and in other industries too this tendency is certainly on the increase. An interesting example among others is the incorporation of a number of roofing-pulp factories in the big concerns of the tar products industry. The very recent growth of big integrated undertakings in the *textile* industry, its extension downwards and upwards, is partly due to the fact that cartels here have made great progress, in the finishing sections especially.

If then the cartels on the whole encourage integration of various stages of production, we may here consider what are their effects in general on the present-day movement for securing the utmost possible degree of rationalization in German industry. It cannot be denied that, generally speaking, they tend to delay the suppression of the weaker firms, and that the task of rationalization must in the main be carried through by other organizations which can probe deeper into the individual works. Still joint selling by syndicates, for instance, generally implies a tendency to restrict the kinds of goods sold, and is so far a tendency towards rationalization. Again the efforts of the cartels to control the markets may indirectly promote rationalization within the individual firms, and this may also result from the common discussions in the trade associations. But, in general, cartels are rather a conservative element. Unregulated competition is decidedly quicker at suppressing firms which are working irrationally. But from the point of view of the national economy this is by no means always desirable. Even though the efforts of the few cheapest producers to supply by degrees the whole of the demand are beneficial to the consumers — and this is only the case so long as such elimination of the weaker does not lead to a monopoly and its ruthless exploitation — yet on general social grounds the suppression of a producer can take place too suddenly, just as the elimination of labour through machinery. It is even theoretically the case, as I have shown in my

theory of crises,³¹ that the incorporation of new technical improvements may be too rapid, i.e., in the case where it outstrips the necessary amortization of the invested capital. The greater the economies realized by the new methods of production, the quicker the capital invested in the older means of production can be amortized. But since these older means of production generally belong to other concerns, the old capital, from the point of view of individual business, is put out of commission, not by amortization but simply by the process of competitive warfare, i.e., by the gradual ruin of the weaker firms. This leads from time to time to overcapitalization in the particular industry, and to partial crises. If this process of suppression of the weaker is somewhat slowed down by the cartels, this is generally, from the standpoint of the national economy, all to the good, since continuous development is usually economically more desirable than a precipitate one.

In recent times it has often happened that cartels have bought up new patents in order to prevent new competition springing up, and this is, generally speaking, desirable, since it prevents uneconomic over-capitalization. We have already mentioned the acquisition of the Owens patents by the bottle combine. The jute cartels have acquired the textilose patents or else have entered into agreements with concerns exploiting them whereby manufacture on the textilose process both in Germany and other countries is to be regulated by arrangement with the jute cartels. The combine of German compressed yeast manufacturers in 1913 bought up a new process for the sterilization of yeast, and formed to exploit it the 'Imperishable Yeast Co-operative Society, Ltd.' In 1923 the same combine bought the Wohl process for making baking yeast from ammonia compounds instead of malt. In 1928 the tube combine decided to erect for itself a tube factory on a new principle. By such means the cartels themselves effect what is generally only possible for trusts and combines or interest groups (*Interes-sengemeinschaften*) (e.g., in the chemical industry); they make it possible for all their members to share in the advantages of a new invention, and prevent exploitation leading to violent competition. Hitherto there has been no known case of a cartel resisting the employment of valuable technical improvements. But as these examples show, they do attempt to smooth over the processes of transition.

However, they certainly have their limitations in this respect, and it must in general

be acknowledged that this is the great advantage which *mergers* have over the cartels and other looser forms of union, that financial amalgamation most easily allows of the amortization of the old capital. For this reason mergers play a larger part in the recent efforts for the greatest possible rationalization than do cartels and other looser forms of combination, such as the 'amalgamations' and the like. Still, as we shall see, mergers also have their limitations; and so we find to-day both outside of and above them efforts to bring about a more rational system of production and a more rational satisfaction of demand by means of mere agreements and combines. This is brought about by agreements as to 'standardization, division of product and specialization' — to use the terms so popular at the present time. One can use here the term 'finishing association' — the term cartel being, as we have shown, misleading. This is probably the only part of the vast and very vague plans for a rationalization of the national economy 'from above,' as set forth by Rathenau, Moellen-dorff or Wissel, which are still realizable to-day. All these attempts at a more rational organization of economic life are made with a view to private profit, and even the more prudent socialists are realizing more and more that this principle, which is the sole organizing principle not merely of the present economy but of all forms of economy known to us in history, cannot be eliminated and replaced by any of the extremely vague ideas of 'communal economy.' The struggle between different economic groups will therefore still remain, and the task of the State, that is, of a government which stands above the various combines of interests, will be confined to preventing abuses of power and needless hardships, and promoting through its economic and financial policy a more favourable distribution of income.

Chapter XIII: The Most Important Cartels in the War and Post-War Periods.

To our description of the effects of the cartels we shall append a few words as to their efficiency in the World War and their subsequent development. Here we are concerned mainly but not exclusively with effects on the given industry itself. The various organizations of German industry, of which the cartels are merely the most important and the best known, were put to an extraordinary test by the War. The fact that the firms were used to such organizations, and their adaptability and capacity for co-operation, proved a great blessing to the country. The assertion of our enemies that we owed this merely to our military discipline is quite untrue; it was not a case of arrangement in organizations created by the State, but of co-operation within voluntary organizations created by themselves, which merely had to be adapted to the new needs arising from the War. But it is certainly true that the German firms' capacity for co-operation and adaptability to new circumstances was increased by the age-long habit which German producers and merchants had acquired of working together in the various kinds of guilds and unions and co-operatives.

It is well known that when War broke out Germany was entirely unprepared for it from an economic point of view; among other things the provision of war material of all kinds was entirely inadequate. To effect an early improvement in the situation by the speedy provision of the vast and various requirements of the army would have been impossible without these organizations of industry. Here the close relations existing between firms in their trade associations, cartels and interest groups were

a means of overcoming many difficulties. All these joint organizations supported and encouraged the individual in his efforts to do his best for the speedy supply of the army's needs. Apart from the syndicates, With their exact knowledge of the productive capacity of each one of their members, the quick assumption by industry and the quick execution of the enormous army contracts which suddenly began to be given out on all hands would have been quite impossible.

This was true of the coal production for the railways, of the provision of benzol for army and navy, of the supply of the various kinds of steel required for guns and shells, and of numberless other objects in the enormously increased demand made by modern war, which before the War no one had ever thought of producing, at least in sufficient quantities. That this new demand, quite apart from the shortage of raw material which soon began to make itself felt, could not be satisfied, and quickly satisfied, without conceding higher profits, is evident. But where instead of approaching the trade organizations it appeared desirable to deal with individual firms or with particular middlemen, the price-increases were often very much higher than where the cartels were in control. The officials are to be blamed for not having known, it seems, how to approach the trade organizations direct and secure direct deliveries; instead of which they often, especially at the beginning of the War, imagined themselves obliged to fall in with the offers made to them by clever middlemen, who while frequently securing quick delivery, made extraordinary profits out of the business. The cartels secured that the army contracts and the profits derived from them should be distributed over the whole industry.

In the times of revolutionary price-changes following on the War it is of very great advantage to the buyers — even more so than in normal times — in calculating their costs, to be all put on an equal footing owing to cartel control of production. Dealers and finishers are thus enabled to adapt themselves far more easily to changing economic conditions. The three groups of producers of raw material, finishers, and merchants are the better able to co-operate with one another, and the more likely to reach agreement with the Government as to their price-policy.

It is quite intelligible if, as is not to be denied, a number of cartels were formed after the outbreak of War to exploit the immediate needs of the army, and if now and again some cartels, especially the so-called 'Tendering cartels,' took advantage of

the favourable opportunity to exact high profits for their members. In addition secret agreements among traders and merchants were probably not uncommon, with a view to extracting the greatest possible advantage for their trade from the scarcity of goods and the revolution in all values brought about by the general fluctuations of price. But at least of the big and well-known cartels which controlled whole branches of industry it may be said that they were moderate in their demands and in their price-policy. In these branches the fixing of maximum prices did not prove so often necessary, and when such maxima were fixed, it was easier to secure their acceptance. Many of the cartels were also able to ensure that certain raw materials, which had to be used as economically as possible, were only used where their employment was absolutely necessary. They also facilitated the amalgamation of works with a view to rationalizing production. In many industries too they furthered organization for export, which had become equally necessary since export had to conform to the particular purposes of the government, economic or political. The liquidation of foreign firms in Germany was rendered easier by their assistance, and where international cartels were in existence the losses consequent on the liquidation of German firms in enemy countries were alleviated or even avoided altogether.

Thus in war-time the cartels at first showed themselves in a favourable light; but just as was the case with the monopoly organizations of the workers, a change became more and more marked as the struggle went on and conditions of economic life became everywhere more difficult. With the growing shortage of everything, the appetite for profits grew in every class of the community; speculation and profiteering made headway, and the short-sighted financial and taxation policy of the government did nothing to check it. The shortage of goods and the increasing stocks of money combined to undermine in an ever-increasing degree the accepted system of prices. The fixing of maximum prices became more and more difficult as it became more and more arbitrary, and the State in its regulation of the cartel prices too found it more and more impossible to discover any principles for scientific limitation. After the collapse this state of things continued and became enormously more acute, but it had its roots farther back, in the four years of the War. But now the occupation of large parts of Germany, the raising of the blockade, and the sale of army stores opened up a vast field for both legitimate and illegitimate trading; while

the rapid increase of the currency circulation, the general economic insecurity and the unimaginable depreciation of the mark provided unheard-of possibilities of speculation.

Above all, with the political revolution, the power of the *workers' unions* was prodigiously increased and ruthlessly exploited by them. This was only human, and especially in the light of their war experiences natural enough, particularly when one considers the liberal, even extravagant, scale on which benefits had been dealt out to the unemployed. But it is time people ceased to assert that the exploitation of a monopoly position to the damage of large classes of the community is a peculiarity of the 'capitalists.' *All* monopolies may be in a position to do this, especially where they are strengthened by the possession of political power. It may be more difficult for the workers to form monopolistic organizations, but when they are formed they wield the weapon of the boycott by means of their strikes far more drastically than the employers have ever managed to do.

From this time on the demands of the workers were always the decisive factor in each successive rise of price. The demands of the workers in the State factories and the unemployment benefits were the main cause of the enormous increase in the paper circulation; this put all prices up, and gave rise to still further demands for increased wages, and these raised most prices still further. The statement that the workers were only concerned to obtain higher wages to correspond with the rise in the cost of living is not strictly true, since, by their doctrinaire introduction of the eight-hour day just at a time when only the utmost exertions could overcome the shortage of food, they were themselves partly to blame for the high prices. Again, as the most influential party in the government they must also bear a share of the blame for the immense increase in the note circulation which was mainly spent in wage-payments and resulted in such violent increases of price. Finally, wage-increases and rises of price naturally react upon one another; the cost of producing raw materials consists mainly in the wages bill. It must however be conceded that in the latter stages of the inflation, when prices and wages were being raised faster and faster to correspond to the foreign exchange value of the currency, the workers were generally the last to demand a rise. First came the demand from industry and commerce for 'prices fixed to cover the cost of reproduction,' then all the dealers

with their demand for the introduction of 'gold-accounting,' and then the demand of the workers for 'stable-value wages,' so that finally, as the depreciation of the mark began to take more and more catastrophic forms, every one engaged in economic life with the exception of the officials had got accustomed to calculating in gold marks.

While the propertied classes could live on their savings, the classes without property evidently had to live too, somehow. But there is no doubt that the wage demands of certain groups of workers went beyond what was necessary or realizable, when their services and wages are compared with those of other groups. In particular the workers in the State factories, led by the railway-men, took advantage of the fact that the governments were not in a position to resist their demands. The cry for socialization was raised, not merely because this was felt to be a better form of economic organization — that under modern conditions apart from some exceptional circumstances this is not the case is becoming more and more clear to the responsible leaders — but merely from the point of view of their private interests. But the workers must have realized that if this were to become general they would themselves have to pay their own high wages, that is to say they would have to pay the State as much in taxes as they received from it in wages.

In these conditions, the situation of private firms varied as much as did the power of the workers themselves. Where well-organized cartels were in existence, as was the case in the heavy industries, in many branches of the pottery and quarrying industries, and paper and textiles, the producers by following the well-known plan of exploiting the scarcity of goods and — as far as export was concerned — excessive depreciation of the currency, were able to concede all the wage-demands of the workers and fix selling prices which more than covered them. Whereas formerly when the producers' organizations had been more powerful, and there had often been a tendency to raise wages to correspond with selling prices for the sake of social peace, the cartels now simply raised their selling prices to correspond to the continual rises in wages. As far as the producers were concerned, association was often unnecessary; the demand was so great that the individual firm was often enough in a monopoly position *vis-a-vis* his own customers. And it may here be observed that in this respect too there is no difference of principle between capitalistic and non-capitalistic economic activities; in such a state of demand highly

qualified service reaps exactly the same monopoly profits.

Thus the shortage of most kinds of goods enabled the producers and merchants in many branches of trade, and their trade organizations, to exploit first a post-War or 'collapse-boom' and then an 'inflation-boom.' This was above all the case in the export industries, where the fall in the exchanges led to gigantic profits being made until the cost of raw materials and labour had adapted itself to the new conditions. A trivial rise in the exchanges, such as took place in the springs of 1920 and 1922, upset these industries altogether, and brought a slump in these and all the other industries (e.g., paper, leather, etc.) which had put up their prices ruthlessly. The further deterioration in the German financial situation, the London Agreement, the beginning of reparations payments, the loss of the most important part of Upper Silesia, the invasion of the Ruhr with its money requisitions and forcible throttling of German economic life, all combined to bring about a fresh period of inflation of a degree hitherto unknown, so that in the second half of 1922 a new wave of tremendous price-increases began.

The monopolistic combines, including those which were under State regulation (the coal and potash syndicates), now took a large part in exploiting the boom, no longer attempting, as had sometimes been the case in more normal times, to smooth out fluctuations of price, but rather — owing to the special character of the situation — to render these more violent than they would otherwise have been.

Thus there began to be heard ever louder the cry for the repression of the extortionate practices of the cartels and syndicates, for the re-establishment of open competition and the enacting of a cartel law. Now it is no doubt true that a certain amount of open competition ought to be maintained. But the movement for further increases in price, even where these were not due to the progress of inflation, started above all in those branches of industry in which there had long been a far-reaching State regulation of price-policy, for instance in mining, where internal coal prices had risen above world prices; and again in those industries where, in consequence of an overwhelming demand, the producers had a relative monopoly even apart from any agreements — as was at times the case in agriculture.

After the stabilization of the mark, these conditions passed away, and the German economic system returned to the state of things which is normal in present-day

economic life, viz. that of excess production, or in other words, competition between sellers for the market — a condition of things which even the cartels are not able to exclude entirely. A few measures of socialization remained as a kind of relic of the period of war and revolution; but these were mainly confined to coal and potash mining, and to the production of electricity.

In the inflation period the importance of cartels was somewhat diminished, since the various forms of financial or capitalistic concentration, such as mergers, association of interests and shareholdings or participations were more in favour than the cartel with its more co-operative organization dependent on more tranquil economic conditions. But all the talk which was current about that time of a 'cartel-weariness' in big-scale industry, of the cartels being past the prime of their development and now antiquated organizations, to be replaced more and more by financial mergers, associations of interests, amalgamations and trusts, was complete nonsense and due to false generalization of the events which were taking place in certain particularly prominent industries. It is true however that a consciousness was growing up of the insufficiency of cartels alone, a consciousness that, beside and beyond them, other more cohesive forms, especially financial, had become necessary, if the tremendous difficulties of present-day economic life in Germany were to be adequately met. The realization, however, that cartels are no panacea is by no means new. On the other hand, it is clear that the cartel is the sole *monopolistic* form of organization adapted to very large industries comprising many scattered firms. Their importance has by no means diminished. In the great industries, especially on the heavy side, where they first developed they were for a time somewhat overshadowed by other forms of organization. On the other hand, in many other industries and branches of commerce, particularly in small trades, the cartel has only recently begun to spread at all widely. And recent developments in the iron and steel industry prove how indispensable cartels are even to heavy industry, in spite of financial concentration. When, in 1920, the Steel Works Association was dissolved, there remained at the time of stabilization (at the end of 1923) only the Rhenish-Westphalian Pig-iron Association, a syndicate with unified regulation of sales, production and price, but controlling only such quantities of pig-iron as were not further worked up by the producers themselves, i.e., only about 20 per cent of the

total German production. However, by the beginning of 1924, loose agreements were concluded as to prices of heavy plates and bars, and on 1st November 1924 the German Steel Ingot Syndicate (Deutsche Rohstahlgemeinschaft) was founded, in the face of great difficulties. Unlike the earlier associations which had provided for the allocation of contracts, this contented itself with distributing the total supply to be marketed in connexion with a 'production-cartel,' i.e., works were allotted a certain quota, and restrictions upon this amount were enforced according to the varying state of the market. There was however no provision made for price-agreements. These were left to special associations, of which the Semi-Product Association was the first to be formed, then the cartels for rolled wire, wire products, bar iron, heavy plates, rails, tubes, etc., followed. Thus the German Steel Ingot Syndicate is merely a 'framework cartel' or 'foundation cartel,' which, unlike the old Steel Works Association, allocates quotas not merely for 'A' but also for 'B' products, while leaving price-fixing to the special associations. How far this renewed development of cartels in the iron and steel industry has gone may be seen from the fact that, for wire and wire products, there are at present no less than seventeen different cartels.

From the consumer groups within the Iron Trades' Federation (Eisenwirtschaftsbund) there was developed the Association of Iron-Consuming Industries (Avi), a group within the Federation of German Industries (Reichsverband) and including some fifteen associations under the leadership of the Association of German Engineering Works. This came into conflict with the Steel Ingot Syndicate especially over the question of export premiums, but it proved possible in the end to arrange such premiums in accordance with ruling world prices for the majority of the products manufactured by the iron and steel cartels.

These few data show that, quite apart from the growing importance of international cartels, there is no question of any 'cartel-weariness' in the German iron and steel industry, and that for the simple reason that in spite of all financial concentration they are absolutely indispensable in the present difficult situation of German industry. A ruthless competitive struggle precisely in those industries which are the most heavily capitalized is to-day a sheer impossibility from the point of view of a rationalized national economy.

PART III: The Effects of The Cartels Upon the Consumer.

Chapter XIV: Effects Upon The Ultimate Consumer.

The effects of the cartels on the *consumer* may at least, generally speaking, be distinguished according to the two different ends pursued by producers in forming associations — increase in profits, and the diminution of capital risk. The striving after enhanced profits is evidently contrary to the interests of the consumer, since it is manifested in higher prices. On the other hand, efforts to diminish capital risk, which inspires producers to aim at a more even flow of production and marketing, and fit into the whole economic situation, is generally speaking advantageous for customer as well as producer, although, as we shall see, many of the steps taken to ensure the result still have an unfavourable effect to-day.

It is obvious that the cartels as monopoly organizations of producers are in a position to damage the consumer, and *also* that firms can assert the greater power which is given them through combination with all that ruthlessness which, in our system of economy based upon individual selfishness, dominates the exchange of goods. It may be necessary to take steps to mitigate this, but it is no use to introduce into discussions of this question any ethical or moral considerations bearing on '*justification*' for excessive profits. It is impossible to draw any general line between 'reasonable profit' and 'profiteering.' It must be emphasized that consumers have no right to expect that their needs should be satisfied at any particular price. A 'just' price applicable to all firms is impossible to fix owing to differing costs of production. But even to characterize with certainty any particular price as '*going beyond the limit permissible under actual economic conditions*' is extremely difficult. At best, prices in the world market can be drawn upon for comparison, but

even if inland prices are higher compared to them, this does not necessarily mean that excessively high profits are being made. Prices quoted by competing home firms, i.e., firms which have remained outside the cartel, and of firms in other branches of trade, can only be supposed to represent what the economic conditions require in times of growing depression. At times of improving trade outside firms are usually glad to accept the cartel prices, and when the demand is keen their prices often exceed those of the cartel.

Thus price statistics can prove little either for or against cartels. In cases of good trade in particular it is impossible to say what the prices would have been if there had been no cartel. The immediate purpose of price-statistics can only be to show whether cartels have brought about a greater *steadiness* of prices. Only when the figures for a long period are at our disposal can we establish a steady rise in price as the result of a cartel. But it is, of course, possible that such an increase of price, even if brought about by the cartel, may ultimately be due to general economic conditions. It is often possible to reach a conclusion upon this point by comparing prices with the movement of wages. In the case of the coal syndicate and the Steel Works Association there was no doubt both as to the general enhancement of price effected and as to the greater steadiness of the prices in comparison with earlier years. The price-increases exceeded, generally speaking, the wage-increases, which were also very considerable; the reverse is probably the case to-day.

In any case, we may draw the general conclusion that the main effects on price, which differentiate cartel operation from open competition, appear in times of *decreasing trade*. For it is at such times that the cartels prevent a *fall* in price to correspond to the fall in demand. Thus their main effect is to enable firms to hold up prices in times of falling trade, and they do this by making the quantity produced and marketed correspond better to the shrunken demand than would be the case under open competition. Cartel operations differ from open competition as follows: cartels adapt their *production*, not their *prices*, to the prevailing demand; open competition adapts prices but not production. From this, the economic effects of the one and the other may be deduced. Anyhow, it is in times of *depression* that the loudest complaints are heard about cartels.

To decide whether great price-increases may be effected through cartels, and

especially to decide whether they can be kept high in times of decreasing trade, it is important to take the whole nature of the particular industry into consideration. Evidently those branches of industry are most favourably situated from this point of view which are least liable to the risk of new competition springing up, i.e., those which are most protected by the restricted sources of raw materials, heavy capital cost of plant, high ratio of transport costs to price or protective tariffs from the advent of new producers, imports from abroad and the use of substitutes. Among the industries of primary national importance, the various branches of the mining industry are probably the most favourably placed from this point of view; and this explains both the firm structure of the cartels in this field and also the fact that they have been able to hold up prices in periods of unfavourable trade. On the other hand, industries for the production of high-class special products are also in a position to keep prices high in times of depression, provided their members show sufficient *esprit de corps* to establish exact price-lists for the various qualities and special products, and thus prevent their market being spoiled by mass-produced articles. This, for instance, has been the case in the *porcelain* and *mirror-glass* industries; but, in their case, there was also the special circumstance that factories for these products could only be established in certain localities on account of their dependence on special raw material. The International Mirror-Glass Syndicate with its offices at Brussels, which comprises practically all European makers of mirror-glass, is probably the most firmly organized international cartel to be found in any industry. It is true however that this combination was greatly facilitated by financial concentration in the industry, since before the War, the most important mirror-glass factories in Europe were mainly in the hands of Belgian and French capitalists, and these to-day control 75 per cent of the total German production.

We have already mentioned the way in which, under modern conditions, the cartels frequently put excessive burdens upon their customers through conditions of delivery, contract and sale; and we shall have to return again to this topic. In general, however, it may be said that the greatest danger involved in the existence of the cartels, viz. that as monopolistic organizations they may raise prices excessively and thus damage the consumer, has not yet been realized to the extent one might have expected. It might seem that in this respect associations of small local traders and

shopkeepers have frequently had more undesirable effects than the cartels. In any case this is true at the opposite end of the cycle, where the ultimate consumer is prevented from benefit-ing sufficiently from *price-reductions*. This is presumably because large-scale industry, far more than is the case with local craftsmanship and trading, is hemmed in *on both sides* by watchful and keenly calculating branches of trade, whereas the ultimate consumer forms a far more helpless object of exploitation. Large concerns must reckon on a continuous demand to a greater degree.

The increasing number of public undertakings since the War has brought increasingly to the fore a problem which in fact existed since the very beginnings of the cartel system — whether, in dealing with *public* enterprises, the cartels have not too easy a task, and how this state of things can be altered. It is a fact that contract cartels, which are mainly formed to exploit public bodies, are among the oldest of cartels, and it has very frequently happened that they have been able to extort from public bodies prices which they would never have got from private firms. But it appears to me that this fact speaks less against the cartels than against the extension of public enterprises which is so popular to-day, since it is well known that their officials frequently do not calculate from a purely business point of view. The recent tendency of the directors of public enterprises to scrutinize more sharply the practices of the cartels is therefore much to be recommended; we find this in the relations between the administration of the State Railways and the locomotive and rolling-stock cartels, or again we find public authorities combining against the cartels, as is now being attempted in the case of tramcars. In this connexion it may be mentioned that the State Railways have been blamed for having upheld the rolling-stock combine and so delayed the necessary closing down of inefficient works which is expected to take place shortly. The distribution of contracts among the members of a combine has merely led to insufficient employment and excessively high prices.

Before the War it was possible to observe how even a slight increase in the rate of profits above that usual in the industry normally led to the foundation of *new competitors*. The cartels thereupon tried to absorb these and decree a general restriction of production with a view to keeping up prices. But where this production

does not really correspond to the state of the demand, it is impossible to maintain this condition of things in the long run, since the works which produce cheapest and which get good profits even at lower prices prefer in this case to run their own works full instead of keeping the weaker works alive. Thus the cartel generally gives way to competition for a time. Before the War very typical conditions of this kind were to be observed in the cement industry; and in numerous branches of the stone and pottery, textile, chemical and metal industries the normal course of events was for the cartels to be dissolved in times of depression and then to be renewed after a period of competition.

The foundation of new firms in pre-War Germany was so greatly facilitated by great capital wealth and wide extension of the credit system that even cartels were unable to prevent this for long, although attempts to do so were made more and more frequently. We have already spoken of the means by which the cartels fought the outsider. But even these means are ineffective when once the cartels exceed certain limits in their raising of prices and enhancement of profits.

In any case experience has hitherto proved that all cartels where they have been some time in existence have brought about a notable increase in the quantity produced and offered for sale; if this has not been due to the stimulus they have afforded to the founding of new firms, it has been caused by the members enlarging their own works. In the case of the Rhenish-West-phalian Coal Syndicate, we find both of these effects. *New* mining companies were founded, and almost all the existing works increased their production considerably through the sinking of new shafts — and this was naturally far more the case with the outsiders than with the cartel members. In the first decade of the Coal Syndicate's existence its members' share in the total production of the Lower Rhenish-Westphalian coal-field fell from 86.67 per cent, to 82.25 per cent; thus the share of the outsiders rose from 13.33 per cent, to 17.75 per cent. But after almost all the outsiders had come in in 1903 the share of the mines that were not syndicated rose once more from 1.3 per cent, to 11.1 per cent by 1913. In 1893 the participation figure for all the mines in the syndicate amounted to 35.5 million metric tons as against a total production of 38.6 million tons in the Mining District of Dortmund. In 1903 it had gone up to 63.6 million tons out of a total of 64.7 million tons, and in 1913 to 88.7 out of a total of 110.7 million

tons. In 1920 the total of the quotas arranged on the basis of the expiring syndical contract was 120 million tons, though 21.5 million tons of this was coal produced by smelting works for their own use. In the cement industry, too, in the last few years the production of outsiders increased considerably more than did that of the cartels. Still in the case of products enjoying a natural monopoly owing to their limited sources of supply, such as coal, potash, petroleum and the like, the danger that the advent of new competition will be ineffective as a defence against the fixing of excessive prices by the cartels is certainly at its greatest, and thus it is here above all that State interference is justifiable. But, even in the case of these products, the cartels before the War led to such a great increase of production that the danger that they might bring about a scarcity and so, by artificially preventing the supply from keeping pace with the demand, raise prices without limit after the fashion of the rings, did not seem at all imminent.

During the War and for a short time after it certainly seemed as if excess production, in anticipation of demand, which lies at the heart of the system of private enterprise, would give place to a period of scarcity and of overweening demand in the most important commodities. To-day however we recognize that this was merely an ephemeral phenomenon, caused first by the destruction of material and the extravagance of the War, and then by inflation, which in many countries created a purchasing power in excess of that which could be justified by production and services in the ordinary process of exchange. But the destruction of wealth was very quickly made good and more than made good — the world's shipping tonnage, after being decimated in the submarine war, affords an instance of this — and with the stabilization of the currencies in most countries the artificial demand disappeared, so that there can no longer be any talk of a scarcity.

These facts have not in any way been altered by the cartels. Since, to-day, almost all commodities are controlled by cartels, and since, for many finished products, e.g., in the iron and steel industry, there are as many as a dozen different cartels, ranged one behind the other, the increase of price for the goods to the ultimate consumer would have to be very considerable indeed if the cartel prices really did differ so considerably from competitive prices. But this, as has been said already, is not the case, particularly in times of boom, when the cartels often have quite the contrary

effect of moderating price-increases. This conforms to the fact emphasized in my book on economic theory — the fact that it is not costs of production that determine price but, on the contrary, prices which determine the upper limit of all costs of production. The possibilities of a rise in price resulting from monopolistic organization — and in particular from a merely contractual organization such as is a cartel — are generally greatly overestimated. The cartels are quite unable to influence the prices of consumers' goods, especially of goods in general use, to such an extent as might be expected having regard to the great number of monopolistic organizations. On the one hand, this is due to the fact that, for the most important consumers' goods, in particular for agricultural products, the number of producers is inevitably very great, and also commerce, which is not easily susceptible of being monopolized, inevitably plays a large part. On the other hand, it is also and mainly due to the fact that in the products less immediately necessary to life which constitute the main sphere of monopolistic combination, the limits of price-increases are circumscribed fairly closely by movements in demand. Consumers, especially the poorer consumers, the distribution of whose income is very carefully planned out, react to price-increases in some commodities by an almost immediate restriction of their consumption. And a contraction of the market tends to deter firms from raising their prices, especially where the charges represented by fixed capital assets increase in relation to the cost per unit produced, and reduce profits.

Of the weapons at the disposal of the *State* for the protection of the ultimate consumer against monopolistic associations we shall speak below in Part IV. But it may here be mentioned that organized *self-help* too is of great value to the consumers. The principal means of self-help which the consumer possesses against monopolistic combines are *buying co-operatives*, i.e., in the case of the final consumer, the *consumers' co-operatives*. Their significance in general has already been discussed.

In the last few years especially the co-operative societies and their wholesale buying societies have had no little success in their struggle against the monopolistic combines. In the first place the German Wholesale Society (*Grosseinkaufsgesellschaft deutscher Konsumvereine*) put up a successful defence against the cartel of the Proprietary Goods Firms, refusing to adhere to the prices it

fixed, and, by selling outsiders' wares in the society's own wrappers, forcing the cartel to permit the societies to fix their own prices. Still more marked was its success in dealing with the Swedish Match Trust, since it remained outside the cartel which was concluded with State assistance in 1926 between the Trust and the German match factories, the *Zundholzvertriebs-A.G.*, Berlin. It is at liberty to sell to its own member-societies as many matches as it likes at any price it likes — and it now controls *circa* 20 per cent of the whole German production; it is merely under an obligation not to sell to dealers.

In other countries, too, the co-operative societies have had successes against the cartels, for instance in England against the great soap concern, and in Sweden against cartels of the millers, and of the margarine and galosh factories.

Thus in the co-operative societies the consumers have at their disposal two different methods of combating the monopolistic combines — in the first place *centralized buying*, which is done principally through the wholesale societies, and secondly, *production* for their own use. It is to be expected and much to be desired that the co-operatives may have still further successes along both of these lines. But it is better not to overestimate their prospects, as is done by those who hold that co-operatives are a step in the direction of socialism and who would like to harness them to the socialist car. If this tendency showed signs of extending further, it would be a great hindrance to the further development of the co-operatives by frightening away all who held other views. And a split would be particularly undesirable, from the point of view of their struggle against the monopolists.

But even if that should be avoided, we should not expect too much of the co-operatives. Even should the German Wholesale Society manage to increase considerably its present turnover of 444 million marks, this represents but a very small fraction of the total German consumption, at present perhaps 1 per cent. A successful struggle against monopoly will thus only be possible for it in a few instances where the circumstances happen to be especially favourable. In this respect the buying societies of producers are better placed than the organizations of the ultimate consumers. The effects of the cartels upon the various groups of traders will be dealt with in the succeeding chapters.

Chapter XV: Effects Upon Subsequent Stages of Production.

Firms who carry on later stages of production often find themselves in an even worse position than the ultimate consumers when faced by cartel control of industry. These are producers who are obliged to make use of raw materials under cartel control, but have been unable hitherto to form a cartel themselves for their own products. The effects of this upon the evolution of the modern firm, and the tendency towards amalgamation resulting, we shall discuss below. In any case, it is from these circles that the loudest and most violent attacks have been made upon the firmly organized raw-material cartels, and these attacks have been made for a long time past, though usually only until the consumers of the raw materials manage to organize themselves in turn, often with the help of the others.

Thus, though producers in the finishing stages are certainly hardest hit by price-increases on the part of the monopolists, yet it is a great gain to them to have all the buyers put upon one level. Even if these manufacturers are unable to organize themselves, competition between them is still lessened through their all getting their raw material at the same price. The limits to which competition can go, and the weapons which the individuals can wield against one another, are necessarily restricted, where important raw materials and semi-manufactures cost the same for all. The various firmly-knit associations make special efforts to effect this, carefully reckoning up the costs of transport to the various markets and fixing their prices accordingly. This policy is however extremely difficult to carry out without the

purchasers at one place or another fancying themselves unfairly treated, and many are the complaints that arise in this connexion.

The other main purpose of monopoly, namely, to smooth out price-fluctuations over a period of time, with the greater steadiness in the buying prices of raw materials, was hitherto of less importance for finishing firms. Up to now only a few cartels have been really successful in realizing greater stability of price in marketing. It was above all the coal syndicate which, after showing great moderation in the boom of 1897–1900, then prevented a severe fall in the price when the crisis later set in, or rather was actually able to enforce a far greater stability of price than would otherwise have been the case. Thus the coal syndicate did not put up its prices even during the miners' strike of 1905, whereas formerly every strike had been greeted by considerable increases of price. It fulfilled its contracts for deliveries by importing coal from England.

Most of the cartels did not have the same measure of success in this respect. This was partly due to mistakes in organization, and to the fact that the cartels were still too recent phenomena to be fitted easily and most effectively into the national economy. Usually there is in any cartel a struggle between a moderate and cautious section and a section which wants to exploit every favourable movement of trade to the utmost. Even in the coal syndicate the price-increases of 1907–08, which went beyond those of 1900–01, were probably excessive, especially as wages in these years did not rise at all in the same proportion.

After 1909 there was a general rise of prices in Germany, and coal prices rose with the rest, only receding somewhat in 1914. The price-policy of the coal syndicate throughout this whole period must be characterized as extremely moderate. Price-developments during the War must of course be measured by quite a different standard; and since the War, as is well known, the situation of the Ruhr mines has become extremely unfavourable owing to the displacement of the iron and steel industry, the exploitation of brown coal and many other factors.

The price-policy of the Steel Works Association must also be described as moderate, and it is impossible not to recognize that prices in the decade immediately preceding the War were steady in comparison with former times. On the other hand, in the case of another of the biggest of the German cartels, the Spirit cartel, no one

could speak of price stability and, in view of fluctuations which could only be assessed properly in relation to the conditions of the market at that time, it would be impossible for us to judge its policy now.

In most cases, the majority of cartel members in times of good trade insist on exploiting to the full, never considering that, when the tide turns, the slump in prices must be all the greater. It seems that not every one is capable of grasping the fact that it is better both for the industry itself and for the national economy as a whole that a greater stability of prices should be maintained even at the cost of not enjoying to the full the fancy prices of a short and frantic boom. Steps should be taken to make an appreciation of this fact more widespread. The more a moderate cartel policy, aiming less at enhancing prices than at stabilizing market conditions, gains ground, the less will be heard of the attacks upon cartels which are so common at present. Their further development along the right lines depends primarily upon the general application of this principle.

Of course the finishing trades and the merchants are by no means always ready to recognize that a steadier price-policy, such as a number of the raw-material cartels attempt to follow, has hitherto benefited them too. Already in the depression of 1901 the coal syndicate was the object of violent attacks for not reducing its prices still further, and the same was the case in the depression of 1908-09. Without, of course, wishing to assert that the precise level at which the syndicate held the prices during the booms and after them was absolutely the best possible from the standpoint of the national economy, I still believe that the *principle* which the coal syndicate then adopted is the right one in any organized economic system. Consumers who were not themselves organized in cartels (apart from those struggling against vertically combined firms) had no benefit from a sudden violent fall in coal prices. The immediate result of such an event could only have been great losses on the part of those who had bought large stocks of coal and other raw materials in the belief that favourable trade was going to last. There would certainly have been more bankruptcies than was actually the case. In the end, competition between the finishing firms would merely have depressed the price of their products to the utmost which the fall in raw-material prices permitted. In the cartel inquiry this was in fact admitted in various quarters. As the manager of one of the biggest German cement

factories stated: 'There can be no doubt that a further fall in coal prices would merely have resulted in a further fall in cement prices.' Another industrial magnate made a similar statement with regard to the iron and steel consuming industries and the price-policy of the pig-iron association.

It must however be acknowledged that these desirable effects of firmly organized cartels have only made themselves felt to a limited extent, partly through lack of the right kind of organization, partly because most of the cartels had failed to grasp the importance of their task. If, in spite of this, the last two crises before the War, both of them consequent on a period of great expansion, did, comparatively speaking, remarkably little harm, this fact must be in some measure ascribed to the efficacy of the cartels, which, at least in *one* branch of industry, and that one the very foundation of the national economy, proved able to secure greater stability.

The methods employed by the raw-material cartels, especially in the year 1901, have also frequently been the object of violent attacks on the part of the finishing firms and merchants, and have been described as injurious to the national economy. Particularly obnoxious was the pressure to conclude contracts for a long period in advance exerted by the coke syndicate in the boom of that year. When in the year 1899 the economic situation grew better and better and there seemed less and less sign of any early reversal, the raw-material cartels, which had been moderate in raising their prices, soon observed that the finishing firms, whether organized in cartels or not, were raising their prices still further. This was naturally an inducement to the producers of raw material to advance their prices faster. They were still doing this when the boom came to an end, and thus the so-called *fusion contracts* and the *long-period contracts* for coal, coke and pig-iron came to be concluded, whereby prices were bound together and held for some considerable time. However, proposals for the conclusion of such long-period contracts did not originate solely with the raw-material cartels. As was clearly shown in the Cartel Inquiry, the consumers too in the boom period, when no one knew how long it might last and demand was increasing and the prices were rising from day to day, made efforts to cover themselves for a longer period at the prices ruling at the moment, and approached the cartels with proposals to this effect. That the cartels then in their turn did not neglect to apply 'gentle pressure,' giving out that unless contracts were signed then and there

their customers would perhaps not be able to count on getting their raw materials later on, is a fact which is universally admitted.

For many industries steady employment is even more important than steady prices, and this is of great significance not merely for the industry in question but also for the whole national economy.

It might however be mentioned that not all industries are equally interested in obtaining stable marketing conditions and stable prices. Mining, where breaks in the regular process of exploitation are peculiarly disadvantageous, has much more to gain by stable conditions than the finer manufactures, where a partial closing down of works is easier or where production for stock can be carried on without any great difficulties or costs. It can however hardly be made a ground of complaint against the raw-material industries that they attempt by means of their cartels to bring about the greater degree of stabilization which they need.

Of course even cartels cannot eliminate altogether uncertainty in future market conditions, and in entering into long-term contracts both parties take upon themselves part of the risk consequent upon this uncertainty. As it turned out, it was the finishing firms who lost on the deal owing to the boom coming to a stop, but it might equally well have been the other way round.

The reverse was, for instance, the case with the long-period contracts concluded in 1908 between the benzol association and the big dye works, which use benzol in large quantities as the basis of their manufacture of aniline dyes. The association concluded with the Baden, Elberfeld and Höchst groups of factories (working in conjunction) a contract to supply benzol for twelve years at eighteen marks per 100 kg. — a contract which after war broke out proved, of course, extremely unfortunate for the cokeries. It is evidently improvident for purchasers in times of boom or for producers in times of slump to enter into such contracts. But if in ordinary quiet periods raw-material producers were willing to conclude long contracts with manufacturers on the basis of the ruling prices, these latter, I imagine, would be only too pleased to accept them. In itself any common agreement as to prices and the fixing of these for long periods ahead is undoubtedly very desirable. It is the only means the cartels have at their disposal for securing greater stability. In times of revolutionary price-changes stability cannot be effected by monetary policy alone.

At such times all the monopolistic organizations, whether of employers or of workers, naturally develop into mere instruments of exploitation, seeking to drain the uttermost advantage from the condition of the market.

In general, it may, however, be said that the development of the cartel system and the formation of raw-material cartels have brought advantages to the finishing firms too. To some extent these have had in their turn to give up their individual isolation under pressure from the raw-material cartels, and to organize themselves too into cartels, even though these may have been formed with great difficulty and may not take such a solid form as the others. Thus these manufacturers pass on the pressure they have experienced to their customers. To some extent, however, they have organized themselves in their capacity of *purchasers* into *buying combines*, often in connexion with newly formed cartels, and through this organization have sustained the most violent conflicts with the producers of raw material. These conflicts have often ended in the conclusion of a so-called 'Alliance Combine,' involving a mutual obligation to deal exclusively with one another's associations, perhaps with joint determination of prices. Thus the Neckwear Cartel has allied itself with the Necktie Cartel, the cartel of German Lampglass Smelters with the cartel of German Lamp Manufacturers and Wholesalers. But even where the manufacturers proved unable to organize themselves into solidly constructed cartels, the raw-material cartels have at least pressed upon them some degree of unification, e.g., the forming of technical unions and associations regulating conditions of contract. They have simplified works costing, and rendered their activities less risky than they were before. All this may be best observed in the German engineering industry. Were the prices of the raw-material cartels excessively high, were their system of cheaper prices for export disadvantageous, the situation of this industry would be the most disastrous of any, seeing that it buys all its raw materials from solid cartels of raw-material producers and semi-manufacturers, while it is itself seldom able to form cartels in consequence of the great variety of its products. But quite the reverse is the case. Apart from quite a few groups, which suffer from a rather restricted demand, the situation of the engineering industry throughout the whole ten years preceding the War was extraordinarily favourable; I will only instance in this connexion the whole of the electrical industry, the cycle, sewing-machine, and automobile industries, the

manufacture of mining, sugar-refining, woodworking and textile machinery, etc.

There is only one group of manufacturers whose situation really is unfavourable. These are the manufacturers who are in *competition* with *big integrations* (vertical concerns), from which they are at the same time obliged to purchase their raw material. This is the position in the iron and steel industry. Here huge concerns have been formed, comprising the most varied stages of production and extending further and further into the finishing stages of manufacture. The sufferers from this state of things are the so-called 'pure,' unintegrated works, which confine themselves to a particular stage of manufacture. They suffer not merely from the fact that the amalgamated works are a source of fresh competition for their products, but above all from the fact that these are greatly superior to them in point of their costs of production. The big 'vertical' amalgamations or 'integrations' are independent of the raw-material cartels. They produce their own raw material entirely or almost entirely themselves; they thus have only to take account of their own costs of production and retain in their own pockets the profits which are ordinarily made by the raw-material producers organized in cartels. The 'pure' works, on the contrary, have to buy all their raw material at high prices from the cartels and semi-manufacture producers, and are thus unable to compete with the integrated firms.

But the big integrated firms are not merely superior to the 'pure' works in respect of their cheaper supplies of raw material; they are often in a position to control the raw-material market completely, and will only let the 'pure' works get raw material or semi-manufactures when they cannot work it up themselves. Or else they sell it at such high prices that the 'pure' manufacturers are quite unable to compete with the big integrated works in respect of their finished products.

Under these circumstances, a large number of 'pure' rolling mills could not maintain themselves at all, and have become an antiquated form of organization. Some of them however have managed to survive by restricting themselves severely to the production of a few high-quality products — the method of so-called '*specialization*' — although this enhances their dependence on the state of trade and so increases their capital requirements and their capital risk. In general it is not likely that the advantages of the 'bigger works,' of the integrated concern as against the unintegrated, can be balanced in any way whatever. It is thus intelligible that the

greater part of the finishing industries have attached themselves to some big mixed works by way of amalgamation or pooling of interests.

There can be no doubt that this conflict between pure and mixed works will become more and more widespread, the further the present tendency towards concentration and integration, i.e., the unification of different stages of production even though only within the limits of a single concern, grows. This is in fact the case. To-day we see this tendency making progress in large parts of the metal, chemical, potash, and even in the textile industries. It produces new conflicts of interest within the limits of a single branch of industry, and is thus for the final consumer an automatic hindrance to the excessive exploitation of monopolies.

Chapter XVI: Particular Effects of Cheaper Sales For Export.

We have still one feature of the cartels to discuss in respect of their effect upon the consumer, and one which is among the most difficult and important of the problems arising out of the cartel system : I refer to the policy of cheaper sales for export. The cartels normally extend over a limited area only; sometimes this is the whole of Germany, sometimes some narrower piece of territory limited by natural conditions, e.g., costs of transport. The monopoly position of the cartel does not go beyond these limits, and thus there arises a difference of prices inside and outside the territory of the combine. Customers outside the cartel's sphere of influence can buy their goods under more favourable conditions, and the finishing firms within its territory, having to pay dearer for their goods, find their competitive power diminished. This phenomenon has particular importance in the case of the *national* price-cartels, where the territory left to competition is that of foreign countries. It is above all in this form of cheaper sales for export, the so-called *dumping*, that the cartel policy of keeping prices within their own territory higher than outside it has given rise to the most violent attacks upon the cartel system in general. Although this practice is by no means peculiar to Germany, our enemies took advantage of it in order to inflame hatred against Germany in foreign countries and so to help in bringing on the World War. The policy of cheaper sales abroad has been denounced as a waste of the national substance. But this accusation is unjustified, since the action of the cartel has seldom led to reduced prices abroad. After the conclusion of the cartel-agreement

as before, firms are obliged to offer their goods at any rate at the prices of the other competitors, if they are going to have any market. As long as competitive prices prevailed at home, no one ever dreamed of talking of waste of national wealth, even in cases where export brought no profit at all or a very small one, being undertaken solely with a view to avoiding over-production or dosing down at home. It was only when firms, forced to this step by the ever-fiercer competitive struggle, entered into price-cartels, that the opinion began to be heard that it was undesirable from the standpoint of the national economy for goods to be exported at prices which only just covered the prime cost of production of the exported commodities. To-day people find less to criticize in this policy, in fact they usually admit that it is generally better for goods to be exported cheaply to foreign countries than for excessive production to bring about falls of price and crises at home, or for the works to be under-employed and numerous workers to be starved.

But at bottom it is not a question of waste of the national wealth, but of something quite different, namely the likelihood that manufacturers whose works are situated within the cartel's sphere of influence may find that its high prices diminish their power to compete with others who are outside it and therefore able to buy their raw material cheaper. A moment's reflection shows that this question of whether the home manufacturers are injured in respect of their power to compete with foreign manufacturers has nothing whatever to do with the cheaper export sales. For even supposing the cartellized industry exported *nothing* at all, the inland manufacturers might be put at a disadvantage as against the foreign manufacturers, and this merely through the cartel keeping inland prices higher than those ruling abroad. Leaving out of account the theoretical possibility that German raw-material cartels through cheaper export sales might considerably depress world prices — and this not at all likely to happen — it is not through the cheaper export sales of the cartels that the competitive power of our manufacturers is damaged, but on the contrary it is damaged even if they export nothing. It is not the cheaper export sales which damage the manufacturers, but simply and solely the high internal prices. If the Pig-iron Syndicates or the Steel Works Association export nothing at all — and, in fact, in times of boom their export is quite insignificant — the home manufacturers who have to buy their products may still find their competitive power diminished, simply

through the fact that home prices are far above those ruling in the world markets. The danger of the cartels having injurious effects thus is once more found to be simply and solely due to their monopolistic nature, i.e. to the opportunity they enjoy of fixing excessively high prices within their sphere of influence.

From all that has been said there emerges an important distinction between cartels for such goods as require further stages of manufacture and cartels for finished products. If we export coal, pig-iron, semi-manufactures and the like cheaper, or, to put it more correctly, if prices at home are kept higher than those abroad, then our manufacturers will find it more difficult to compete, since they will have higher costs of production. Thus Dutch shipbuilders are enabled to construct ships out of German steel cheaper than German shipbuilders, and the same is the case with foreign manufacturers of gasometers and many other products.

On the other hand, in the case of rails, the product in connexion with which the whole problem of cheaper sales for export was first raised, there can be no question of any disadvantage resulting to the national economy. When in the middle seventies, after the German railway system had practically reached its full extension and the demand for steel rails for home use had fallen off, the German manufacturers of rails began to sell cheaper, sometimes at 50 per cent of the home price, to Spain, Portugal, Rumania, etc., simply with a view to finding some sort of employment for plant and occupation for their workers. But this did not involve any damage to the national economy, even if no profit was actually made upon these sales. Since there was no question of increasing the capacity of these countries to compete with Germany, we merely have to try and realize the situation where instead of this export taking place large plants have to be left idle and subsequently abandoned, and large numbers of workers left without employment. Even if the sales only paid the cost of the raw materials and the wages of the workers necessary to the production of the exported rails, even so it must have made the German national economy *richer*, and so is to be judged favourably — which of course does not mean that it would not have been better still if we had been able to get a higher price.

But even where *raw materials* and *semi-manufactures* are exported cheaply, the disadvantages to the home economy are by no means so considerable as might be supposed at first sight.

(1) The cheaper sale is very often more apparent than real, and is outbalanced by higher costs of transport or by import duties, so that the foreign manufacturer does not in fact get his raw material any cheaper than the German manufacturer. Thus his competitive power is not increased, and the export is an advantageous one, if it just serves to keep the works going, to diminish overhead costs, and to provide workers with occupation and earnings in times of depression.

(2) This case is most general, and this kind of export is not at all a *regular phenomenon*. The foreign finishing firm cannot therefore count on getting cheap supplies of raw material with certainty or permanently, and this fact naturally reduces the importance of his competition. It must however be conceded that frequently a permanent form of export dumping has appeared on the scene. This is the case when in order to compensate for internal taxes on consumption State export bounties have been paid, as with sugar. There can be no doubt at all that this type of export strengthened the sugar-using industries of foreign countries and weakened our own. The English jam industry, which was able to import free of duty the cheap sugar from Germany, France and Austria, owes its development to this fact.

(3) It might naturally be expected that this cheap export would be greatly desired by the countries which receive the raw material and whose finishing industries benefit by it. Especially in countries which have free trade and where the cheap goods are not rendered dearer by duties on their importation, one would think that the finishing industries would get a tremendous advantage from the practice. This is however not the case, and even where it is, as with the English jam industry and its importation of cheap sugar, the development was not regarded with favour. It was precisely England which made the first move for abolition of the sugar bounties. But in general, in those countries which get their raw material so cheaply we do not by any means find such a sudden blossoming of the finishing industries as we might perhaps have expected. For instance, we cannot possibly discover any considerable increase in the production of the English finishing iron and steel industries, which drew cheap raw material and semi-manufactures from Germany and the United States. These cheap sales are too irregular for it to be possible to build up upon them a large finishing industry capable of producing for export.

It is in any case a fact that almost all States, far from encouraging cheap imports

of foreign raw materials and semi-manufactures, are anxious to avoid them, and to this end either raise their tariffs or introduce new ones. Even in England movements in this direction were gaining more and more ground before the War. Then as soon as the particular tariffs are established, we find the foreign industries following our example and selling cheaper for export too. There must therefore evidently be some economic advantage in this practice. But even where there are neither protective tariffs nor cartels, people still sell cheaper for exports, and England in particular does this on a large scale. Export is, in fact, the safety-valve through which in times of depression production which cannot be marketed at home is allowed to escape, and thus keeps the works going and the workers in employment.

(4) The circumstance that we are not alone in selling cheap for export but that almost all industrial countries do the same must be taken into account if we are to form a right judgement on the subject. For the result is that the prices thus obtaining in the world market come to correspond less and less to the actual costs of production in the various countries, but are merely the expression of the necessity to export dominating the principal industrial countries. Thus if we make no profit by the price obtained in a given foreign tender, it by no means follows that the States competing with us manage to cover their costs. The German Wire Nail Combine, which for a time kept the difference between its home and its export prices greater than did any other cartel, and which in the last six months of 1900 made a loss of 859,000 marks on its exports, but a profit of 1,177,000 marks on its inland sales, had to struggle against the competition of the American Wire Nail Trust, which in that year was selling abroad at 2.11 dollars while its home price was 4½ dollars. It is therefore quite wrong, from the fact that we may earn no profits on exports at world-market prices, to draw the conclusion that foreign countries are showing superior competitive power. The English finishing industries do not always get their raw materials so cheap as when we export them in times of depression simply to keep our works going. Thus there are normally only quite a few cases in which any injury to German works can result.

It cannot however be maintained that these conditions are always desirable from the economic point of view, that is, from the standpoint of securing the cheapest possible production. It might easily lead to our sending cheap semi-manufactures to

America at the same time as America was offering the same sort of thing to us. It has actually happened that iron goods were exported from America to Europe and then brought back again, and in spite of the duties and the cost of transport they could be bought cheaper than direct from the wire nail trust, which had put up internal prices in the most extravagant way — for a short time only, it is true. With us too it has been the case that German tinplates could be bought cheaper from Holland than direct from the factory which was adjacent to the works of the consumer in question. This leads to a great waste of transport.

Apart from such abuses, which apply in the end to only isolated cases, the disadvantages arising from the cheaper export sales are by no means so important as is often asserted. And if the home finishing industries are put at a disadvantage, this at any rate is not due to the cheaper exportation sales, but solely to the high inland prices, which injure the consumer just as much when the cartellized industry exports nothing at all.

In any case, it is quite false to make the tariff system responsible for the evils of cheaper export sales, as doctrinaire free-traders do. Cheapened export is just as possible with free trade, and, as has been said, English industries practise it just as much. One of the few cases in which England was inclined to look favourably upon the imports of cheap German raw materials and semimanufactures — it was far commoner for her to complain on this score — was that of *shipbuilding materials*. But these were free of duty in Germany, and so no one was prevented from importing them into Germany at world prices, if they so desired.

The cartels have also themselves employed a device for rendering competition abroad easier for their own finishing industries, which were hampered by the high prices of raw materials. They have introduced the so-called 'export bonuses' or *rebates*, i.e., the raw-material cartel credits the finishing firms with a certain sum for those quantities of the raw material which they can prove were used in manufacturing for export. This kind of export rebates was first granted in the early eighties by the pig-iron combine of that day; and subsequently they were paid especially by the coal and coke syndicates to the producers of pig-iron and semi-products. In times of boom these export rebates regularly disappear, and so were abolished in 1906, but introduced again at the end of 1907 by most of the

associations, owing to the trade recession.

In former times such export rebates were paid to *individual* manufacturers. But this often had the result that the said manufacturers with the help of the rebates only carried on an intensive competition against one another in the foreign markets. Thus later on the rebates were paid only to cartels; factories outside of the cartels derived no advantage from them, but the movement towards cartellization in the finishing industries too received a considerable stimulus thereby. The cartels which grant such rebates often oblige the others to deal exclusively with them. Export rebates are frequently granted only to works which deal *direct* with them, in order to prevent abuse of the system by middlemen. But this limitation results in the big firms being given a preference.

Where these export rebates are paid by the raw-material cartels to manufacturers of *semi-finished* products, this has the effect of facilitating export but rendering it all the more difficult for the *finishing* industries to compete in foreign markets. Thus if the coke syndicate gives the pig-iron producers a rebate, these can export cheaper, but the manufacturers of semi-products are injured; if these get a rebate the wire-rolling mills have their exports made more difficult, and if these get a rebate, then the manufacturers of wire nails are damaged. Thus an export rebate of this kind ought to go through all the different stages; this however is difficult to effect, especially since the finishing stages are not all organized in cartels. The whole mechanism is extremely complicated, and in any case insufficient to put the home finishing industries on a complete equality with foreign ones. The tariff measures which might here perhaps be adopted in the interests of the finishers will be discussed later.

In the inflation period the fall in the foreign exchanges had of itself the effects of an export bounty. After stabilization, export rebates were reintroduced — though of course they are not bounties but merely a compensating payment aimed at putting the German finishing industries on an equality with foreign industries which could get their raw materials at world prices. A large number of iron and steel consumers united in the A.V.I. (Arbeitsgemeinschaft der Eisenverbrauchenden Industrie), and this in 1925 concluded an agreement with the German Steel Ingot Syndicate providing for export rebates on a new basis. Through the medium of the Steel Ingot

Clearing Office in Düsseldorf the manufacturers receive for the amount of iron and steel in their exported goods which they have bought from the Steel Ingot Syndicate a credit covering the difference between the home price and the world price, normally in the form of a credit note which is accepted in payment for further deliveries of steel, though sometimes in the case of very large customers it is paid direct in the form of lower prices for their deliveries. The export rebates may not however exceed the amount of the tariffs (on import into Germany). I append the *world prices* for billets which were used as a basis for the agreement between the A.V.I. and the Steel Associations. They are in the main the quotations on the Brussels Iron Exchange. They may be compared with the home prices given above.

Prices of Steel Billets (Marks per Ton)

1925	March–August	109
	September	95
	Oct.–Dec	106
1926	Jan.–June	95
	July	83
	August	96
1926	Sept.–Oct.	96–98
	Nov.–Dec.	105
1927	Jan.–Feb.	98
	March–May	92.50
	June	86.0

Since the tariff is 15 marks, it is clear that the difference fell short of the tariff figure only for quite a short time, the end of 1926 and the beginning of 1927, while normally it exceeds the tariff by a considerable sum. In the case of other cartellized products, iron sections and bar-iron for instance, the difference is even greater, but not for heavy plates which are also syndicated. Here, on the contrary, inland prices were only for a short while in 1926 higher than the amount of the tariff. Still it was not considerably below it either, whereas, for instance in the case of the un-syndicated light plates, the difference between inland prices and world price remains usually far below the amount of the tariff.

This rebate is also paid to manufacturers outside of the cartel, but nowadays only on material bought from the cartels not supplied by outsiders or foreigners. These rebates therefore act as a strong source of support to the cartels. In 1925 they were also adopted by the Pig-iron Association, and recently also by the Austrian and Czech iron industries and by the German brass and aluminium industries. In the French iron industry they are in process of preparation.

We shall speak later of the importance of export rebates for the formation of *international* cartels, and of the various devices adopted to prevent cheaper sales abroad. It might here be mentioned that in the inflation period it was customary to speak of 'valuta dumping' (dumping facilitated by exchange differences). The keen competition made by Germany above all in countries with a currency of high exchange value did more to create ill-feeling against Germany than all the efforts of an unscrupulous press and the deliberate slanders of our enemies during the War. But the cheap sales of that period were not, properly speaking, dumping, they were the very reverse of dumping in the sense habitually given to this word by Americans. We ought only to speak of dumping if we mean selling abroad at a cheaper rate than at home. But this was not at all what happened. It was no more than the consequence of the continual depreciation of the mark abroad, a depreciation which internal prices followed but slowly. The same was seen in the case of French and Belgian exports as a result of the depreciation of the currencies of these countries. People gradually came to realize that stable economic and political conditions in the principal countries were of the greatest importance for the economy of the world as a whole. Only with regard to the reparations demands on Germany this realization is very slow in coming, especially in the neutral countries which reap nothing but disadvantage from the German obligations, whereas France is still under the delusion that she can get large payments out of Germany. The execution of the Dawes and Young Plans requires a 'reparations-dumping,' the underbidding of all other countries everywhere by Germany, and this is bound to have all the more unfavourable effects on world economy as the protectionist counter-measures which many states adopt throw the onus of competition on to one commodity after another. Probably here again they will only learn from bitter experience and gradually recognize the indubitable truth of the conclusion: Without German dumping, no

reparations.

Dumping can mean three different things: undercutting the prices ruling in the dumped country, selling cheaper than in the country of production, or selling below cost price. In all three forms it is generally prejudicial to the stability of economic life. The more these methods come to be employed, not merely here and there in isolated instances, but now by one land now by another, now by this industry now by that, and, finally, in the form of valuta dumping for the whole exportation of a country, the more the following extremely disagreeable effects upon the world economy will make themselves felt: violent fluctuations of price, widespread over-production, and ruthless competitive struggles. Even those countries that do not themselves possess the industry affected derive no advantage from this competition, at least in the case of raw materials, since upon such shifting price-foundations no finishing industry can be built up. To remedy this state of things and induce a greater stability of price and if possible also a rational allotment of production is the task of the international cartels.

Chapter XVII: Effects on the Merchants.

We have yet to discuss the effect of the cartels upon another special group of customers, viz. the merchants who sell the syndicated products.

Commerce in its turn has been very considerably affected by the cartels, and has in consequence passed through some far-reaching economic changes which are among the most interesting developments of the modern economic system. In the state of open competition commerce profited by the disunion of industry and played off individual producers against one another, frequently contriving to make itself the paramount power over the whole process of economic exchange. Its speculative activity had, it is true, a compensating effect and benefited producers, since it led to the purchase of goods when they were cheapest, i.e. in times of depression when the competitive struggle was most furious. Still it had an interest in depressing prices further and further and in fanning the competitive struggle between the producers into ever greater violence. In times of rising trade too, once again, by taking advantage of the disunion among the producers, it often managed to appropriate the greater part of the fruits, and probably too often brought the favourable trade conditions to a premature end through excessive increase of prices. Now, whereas under open competition commerce was the organizing element in the process of exchange, and attempted to balance out demand and supply and bring them into equilibrium with one another, the producers, since the advent of the cartels, are determined to take this organization into their own hands. This is however only possible in very different degrees in the different industries. It may in general be said that the more commerce has proved its indispensability from the point of view of the

national economy, the less has it been affected by the producers' organizations. It is in *export trade* presumably that some special activity for promoting the supply and circulation of goods is most indispensable, and this branch of commerce has therefore been least affected by the modern efforts of the producers to organize themselves. But the effects of these organizations upon commerce *within* the country vary greatly. Trade where producers are badly organized is naturally least affected; above all, trade in commodities which are subject to the vagaries of *fashion*, and in *agricultural* products. Even the considerable agricultural co-operative movement has not had much effect upon the merchants. These have been most affected by the agricultural selling societies for *milk*, but even the biggest of these enterprises, the *Berlin Milk Ring*, proved unable to remain intact. In the case of corn their influence on the merchants has been practically nil, and with the second most important agricultural product, namely cattle, we may observe how, characteristically, the livestock-selling societies, which are quite insufficiently organized, have had hardly any influence upon the cattle-dealers; whereas the slaughter-houses, a *trading* organization, in spite of their business being organized more on the basis of a handicraft, are not merely organized in guilds in respect of their main product, meat, but also have exercised the greatest influence upon the merchants in respect of their by-products, especially hides, through the formation of hide-selling societies, bone-selling associations, central glue factories and the like.

It can also easily be seen why, with commodities which are subject to the influence of *fashion*, the restriction of the merchants' liberty by producers' organizations has been less extensive than with mass-products, which are manufactured in a few standard qualities only. Thus we find the producers exerting the greatest influence upon trade precisely in those industries which are most favourable for the formation of cartels. The trades most affected are therefore *coal* and *iron*, *oil*, *methylated spirits* and *potash*, and in recent times, corresponding with the increasing development of cartels in that industry, *textiles*. The very unfavourable position of the textile manufacturers relatively to the merchants, the various abuses in methods of payment and conditions of trading in general, have been greatly improved by the cartels, and the economic power of the merchants has been greatly curtailed in many branches of the trade.

Owing to the peculiar nature of its products the *book trade* is in a special position. Under the influence of the cartels of the 'producers,' i.e., the publishers, the local cartels of the 'merchants,' i.e., the booksellers, have combined to form an extremely solid joint organization on the basis of 'exclusive trading'

Coming down to details, we find that the importance of the producers' cartels for the merchants depends very much upon the *form* which they take. The most usual and most widespread means adopted for influencing the trade lies in associations regulating conditions of sale and contract. The standardization of conditions of delivery thus enforced is, generally speaking, advantageous for the merchants too. But whereas formerly the merchants were in the stronger position and consequently imposed extremely onerous conditions upon the producers, now, on the contrary, the producers often impose on the merchants excessively onerous 'conditions of delivery' through their cartels and bring about a distribution of risk which is to the disadvantage of the latter. The shortage of goods in the years after the War accentuated this state of things from time to time. Thus the cartels forced the merchants to accept delivery punctually, whereas they themselves often refused to bind themselves to any fixed dates of delivery. Again, the merchants are affected unfavourably by the refusal of the well-organized cartels to guarantee the delivery of the products of any particular factory or of any particular brand. This, of course, has its reaction upon particular manufacturers, since these do not get from the cartel prices corresponding to the special popularity of their particular brands. Further, many cartels injure the merchants by demanding cautionary deposits from them, while others have had beneficial results for the traders by curtailing the number and the variety of their products.

In respect of the conditions of payment the cartels have certainly brought about a great reform of the abuses which were prevalent in many trades, above all in the textile industry, where conditions of payment were extraordinarily unfavourable to the producers. For this, the big traders and the stores were partly to blame, since they kept on demanding bigger and bigger concessions from the manufacturers, increased discount for cash, rebates on quantity, and the like, a further and further extension of the system of on sale or return, etc. These concessions then came to be expected by all customers equally. This state of things gave rise to the numerous associations

for controlling conditions of sale and contract in the textile industries, which often ended in price-agreements and price-regulation. The merchants generally did not recognize the stricter conditions, which often made a considerably greater call upon their stocks of capital, without a struggle; they too organized themselves into associations, and in many industries violent struggles over conditions of trading are now raging. In these struggles, the obligation of exclusive trading, the concession of preferential rebates and the like play a large part.

The cartels of producers frequently try to break up associations of traders by granting preferential conditions to a *few* big merchants on condition they undertake to secede from the association. Here and there such secession has actually occurred. And it is particularly common for only a small privileged body of wholesalers to be admitted to direct trading with the producers' cartel, all the others being reduced to dealing at 'second hand.' The counter-move to this is for the traders' associations to bring the cartel to heel by encouraging outside producers — in fact they sometimes manage to break it up. Thus if the traders stick together in their cartels, their united efforts against the organized producers are by no means hopeless, and associations of traders have had successes against producers' cartels in such things as wallpapers, glass, porcelain, milk, and building materials, and various products of the iron and steel and textile industries. In numerous other cases, for instance, with the various cartels in the silk and velvet industries, the cloth industry, etc., agreements were reached with the wholesalers' associations, which for a time led to the boycotting of the outside factories and of the outside traders. Thus the cloth wholesalers, who are organized in five associations, have formed a 'Group of German Cloth Buyers' and arranged for exclusive trading with the German Cloth Association and other associations of manufacturers. In the silk industry the manufacturers have assisted in introducing an actual fixed limit to the number of wholesalers in the Silk Wholesalers' Association, which refuses to admit outsiders, so as to reserve direct dealing with the manufacturers to a small number of traders. This question, whether the cartels of producers or of the wholesalers themselves should be able to prevent the admission of a firm on the pretended ground that it is not a wholesale firm, thus degrading it to a position of second-hand trade, is one which is hotly debated at present in many industries. While on the one hand it is a kind of cartel terrorism

which makes an extreme use of the right of selling or not selling, we must consider on the other hand that these methods put a stop to the dominance of the mere trader, that excess of mere middleman's activities, which has been the object of so much complaint and is so disastrous to the national economy. It is certainly not right to introduce a legal 'compulsion to contract' for cartels.

The efficacy of a producers' cartel *vis-a-vis* the traders naturally depends very much upon the strength of its own monopolistic position, in other words, on the amount of competition that may be expected from abroad or from outside firms. The less there is of this competition, the more dependent is the trader upon the cartel, and the greater will be the efforts of this latter to curtail his freedom of action. Thus today the firmly organized cartels attempt more and more to take into their own hands the organization of trading, that is, of wholesale trading, so bringing the traders into a position of utter dependence upon the cartel. The extreme limit to which they can go is normally the 'obligation of exclusive trading'; the dealers may then only sell the products of the cartel and not of any outside producers. The mere fact that the dealer is dependent upon the cartel for *one* single product is often enough to force him to undertake the obligation of exclusive trading and to bind him to the cartel.

It may also easily be seen how different is the effect of a producers' cartel upon the dealers, according as it is a loose *price* or *production cartel*, or a firmly organized *quota-fixing cartel*. The greater insecurity and the normally shorter life of the loosely organized cartels, which, especially in times of depression, are apt to break down, often has injurious effects upon the traders too, sometimes rendering their calculations more difficult. However, such cartels do not restrict the traders' freedom in their relations to their customers, whereas with the well-organized cartels it is precisely here that we find the greatest interference with the traders' freedom of action. On this question Bonikowsky³² rightly concludes: 'We find ourselves in doubt which kind of trade is more advantageous to the traders, trade with cartels or trade in conditions of free and unrestricted competition. If we are from now on to assume cartellization of the producers as the normal condition of things, then, in the long run, the trader will find trade with those organizations the most profitable, whose organization is more or less secure and whose marketing policy is not likely to be affected by any competition of any importance.' Thus for the traders the same

conclusion holds as for the manufacturing customers of the cartels.

As for the effect upon the traders of a cartel's *price-fixing* policy, it must be realized that the cartel's price-increases are usually not so injurious to the traders as to the ultimate consumers. As long as these do not go beyond a certain maximum, the dealer will always be able to count on passing them to the final consumer. The more secure the monopoly position of a given cartel, the more sure a dealer can be of being able to keep pace with its increases of price. In fact the dealer has often an interest in prices not being too low, since his profits generally consist in a percentage added to the price. Much competition between dealers often prevents them, it is true, from passing on the increased prices fixed by the cartel. On the other hand, if the traders are organized, there is often the danger that they will not show moderation in exploiting their monopoly position, will put up prices excessively, and bring about a diminution of consumption, as was shown to be the case with sugar and methylated spirits. But in commerce especially high cartel prices are usually not of long duration, since new competition springs up and results in a sudden violent fall in price. Cartels of traders therefore frequently make efforts to lower the price, especially when they have still large stocks of cheap goods on hand, but are frequently prevented from doing so by the producers' associations with which they are on exclusive trading terms.

Again, the cartel's policy of cheaper sales abroad is not of the same importance to the traders as to the finishing firms; still they may find that their export business has been rendered difficult or even impossible. The cheap selling of a raw material or a semi-product can thus damage the traders equally with the manufacturers. In addition, such cheap sales may for the traders be an inducement to go in for dishonest practices.

We saw that the cartels are only able to bring about a greater stability of price in very different degrees in the different industries. The more they do succeed in doing so, the better it naturally is for the traders, since it facilitates their calculations and simplifies their buying operations. The trader can also more easily recognize the fact if a competitor sells at a loss, whereas in open competition he must always suspect that his competitor has been able to buy particularly favourably and he particularly unfavourably. He then is not obliged to follow his competitor's prices. And if trading

prices are steadier, this also increases consumption.

It is true that the cartels usually do not treat all traders equally, but give them rebates proportionate to the size of their orders. But the preference thus given to the big consumers is necessary to the producers, and an almost universal practice. More important is the fact, already mentioned, that many of the cartels only deliver direct to traders who order a certain minimum quantity.

The differential treatment according to the amount of orders has also the desirable effect of preventing traders from becoming slack and inefficient. This is a danger which easily threatens where a producers' cartel regulates the whole market and prescribes their prices to the traders. This puts industrious and lazy, large and small traders all on one level, and is by no means in the interest of the producers, who counteract it by the measures outlined above.

Where the cartels are really anxious to secure a greater stability of price, they are usually obliged to limit the freedom of the trader to fix his own prices, since the competition of the traders among themselves endangers the stability of prices and marketing conditions. Great speculative activity on the part of the traders has this effect more than anything else, rendering it difficult for the producers to get any idea of the real state of the market. The producers' cartel may fix minimum and maximum prices, or it may prescribe the ultimate selling price absolutely. The fixing of minimum selling prices is often desired by the traders themselves, since this means a restriction of trading competition with the help of the producers. This method is, however, not always applicable, e.g., with commodities which are greatly subject to changes of fashion. The fixing of maximum prices, on the other hand, is designed to limit the power of the traders, and possibly of their cartels, to exploit the trade cycle excessively. The fixing of ultimate retail prices is found in the case of a few well-organized cartels, the potash and spirits cartels in particular. This has for the cartel the advantages that the market is regulated down to the ultimate consumer, but it brings with it the danger of a falling off in demand, since the traders no longer trouble to study the special circumstances of the individual customer and make concessions to him in their scale of prices. The trader naturally finds his business greatly simplified, since in his negotiations with his customers he has not got to consider the price at all. But he thereby becomes a mere representative of the cartels,

and loses his independence completely; or at any rate his initiative is crippled.

The syndicates can further counteract excessive price-increases on the part of the traders by themselves undertaking *direct supply* to the consumer. Or the cartel may supply the big consumers direct, leaving the smaller consumers deliberately to the traders. This has often occurred, and has often greatly curtailed the traders' turnover. But it is, generally speaking, only possible in the case of traders who sell to other traders and not to the ultimate consumer.

The chief means, however, by which the producers' cartels exert an influence on trade is by restricting the number of dealers who are allowed direct dealings with the cartel. This attempt to deal directly with the biggest and richest traders has been carried out particularly in coal, but also in the iron and steel trade. This certainly involves one of the biggest restraints of trade which has ever been realized by the cartels, but on the other side it must be recognized that with the advent of well-organized cartels the true economic function of wholesale trade, viz., the speculative equalization or compensation of price changes over a period of time, disappears or at least loses greatly in importance, so that restriction of such trade and its share in profits is quite justified.

All these practices of the cartels act in the direction of *elimination of wholesale trading*, thus promoting a movement in this direction which is to be observed in other regions of the national economy. This movement has three starting-points. On the one hand, there are the *producers*, anxious to exclude wholesale trading and to deal direct with the retailers through their own organizations, a phenomenon which first occurred in the oil business and in connexion with the spirits syndicate. Especially since the War, the development of *Works Sales* has greatly increased in the mining industry. The big works opened coal or iron selling bureaus of their own, so as to be secured against the possibility of the selling syndicates being dissolved, but partly also because of the influence which certain big traders had acquired in the industry during the inflation.

Retail trade, too, or as it is now commoner to call it in Germany, individual trade (*Einzelhandel*), is often anxious in its turn to eliminate the wholesaler and to get into touch with the producers direct. This tendency is strengthened by the development of *large-scale retail* trade, the advent of the stores and the big chain shops. Certainly,

whenever the retailers get into conflict with the producers, they cannot generally do without the assistance of the wholesalers, and only where big-scale retail business has established itself and organized itself into combine is it able to treat with the producers on an equal or even superior footing; witness, for instance, the successful struggles of the Association of Department Stores and Merchandising Firms against the textile associations. Finally, there are the consumers, who are also anxious to eliminate wholesale (and in fact retail) trade, especially through their buying co-operatives. The exclusion of the wholesalers is to be observed especially in the case of artificial manures; here the cartels of producers have got into touch with the great agricultural buying societies, and cut out intermediate trading.

On the other hand, we find the producers' cartels offering the wholesalers *protection* against the efforts of the retailers to exclude them. But in this case it is generally only a few who attain this favoured position of protection by the cartels, while a great number of them are reduced to the position of traders at second hand and cannot buy direct from the cartels.

In addition to making offers direct to consumers or retailers, the cartels also eliminate the wholesalers by means of the *boycott*, which every now and then is enforced against them for breaches of the exclusive trading clause — the decisions of the Cartel Court on this score have been distinctly arbitrary. In the iron and steel industry the tendency towards integration has had certain effects in this direction.

Apart from its buying organizations, wholesale trade has hardly ever itself formed cartels except for products which are already controlled by producers' cartels; these associations then aim at passing on to their customers the extra expenses in which the producers' cartels have involved them. Wholesalers' cartels prove the most durable and have the most important economic effects where they stand in intimate relations with the producers' cartels, are either organized by them or else actually include both producers and dealers in the same association. Organizations of this latter type are found especially in the coal and iron trades. The coal syndicate organized a number of wholesalers into *wholesale companies*, which alone are allowed to trade directly with the syndicate. The best known is the Rhenish Coal Merchants and Shipping Company, Ltd. — the so-called Coal Office which was founded in 1903 by the coal syndicate itself and by four big transport and shipping

firms to monopolize sales of coal in South Germany. It was immediately joined by forty-four of the biggest coal merchants in the South German market. The whole is a marketing society in which the members participate with fixed quotas in tons and in marks. These selling organizations, however, of the wholesalers, of which several others have been founded by the coal syndicate in other districts, do not deliver direct to all retailers, much less to the public. They can in certain cases deal direct with the latter to a certain maximum, fixed at a different amount in the different districts. Thus below the wholesale companies there is a second group of smaller wholesalers and bigger retailers, and below them again the still smaller, merely local retailers. Again, these two groups have formed combinations of their own, of the most various types. Many of these are quite loose associations, others aim at protecting themselves against theft of customers or credit, many conclude agreements as to conditions of trading, some have introduced joint buying, others joint price-fixing. In some districts the small coal merchants have had to undertake to deal exclusively with the wholesale companies. Where, on the other hand, the coal syndicate has to struggle against outside competition, they sell other coal also.

The association of coal mines with coal trading and shipping proved to be so profitable that many mines tried to acquire these subsidiaries. By keeping their own wharves upon the Rhine or a canal, they not merely became more independent of the chances of getting coal trucks, but in addition often reaped heavy middlemen's profits. A few very rich firms of traders acquired mines of their own or bought up a majority of shares, and others concluded long-period coal contracts with particular mines.

In the same way as the coal syndicate organized the coal trade, so the Steel Works Association took in hand the trade in *girders* only it went still further in the direction of unification. First of all, the wholesalers who were admitted to direct communication with the syndicate, formed four territorial groups. Every member of one of these groups received from the Steel Works Association a fixed rebate per ton of his orders. Below these big wholesalers there is a second group of dealers, who do not buy direct from the Steel Works Association and get a smaller rebate. Below these again there are the local associations, in which the retailers are combined, and which, unlike the local coal merchants, are organized on a unitary system by the

Steel Works Association and get a rebate of 50 pfennigs a ton on the traders' prices. In addition, there are still a few dealers who belong to no association and who buy at the prices dictated by the first group of traders but without any rebate.

During the War the iron traders to a far greater extent than the coal traders managed to get control of a large part of the production (e.g., the Otto-Wolf-Phönix concern), and built up some big concerns, many of which, however, have fallen to pieces again since (e.g., the Sichel concern). Most of the big steel works now have their own iron traders attached to them, a fact which rendered the formation of syndicates for the different products in connexion with the Steel Ingot Syndicate difficult.

In the main the relations between wholesalers and industrials and their cartels are similar in other industries, at least where raw materials or semi-manufactures are concerned. A few especially rich or clever wholesalers grasped the possibilities of the inflation period sooner than most industrials, and either with war profits or with borrowed money forced their way into industry, and are to-day in control of many producers.

But, in general, the influence of the wholesalers has receded since the stabilization of the mark. Still, the tendency to associate themselves ever closer with production remains. The wholesalers, when faced with the question on which side they should throw their forces, on that of the producers who supply them, or on that of the manufacturers and retailers who are their customers, have generally chosen the former. They have taken refuge under the wings of the mighty producers' cartels and preferred to be treated as the last stage in production rather than as the first stage in distribution. The powerful cartels controlling raw material and semi-manufactures have certainly exerted their influence here, and even in the case of finished products it appears that wherever there are well-organized cartels, the wholesalers are losing ground, owing to the retailers trying to establish direct contact with the producers through their associations. It is true there are also branches of trade in which the producers are unwilling to sacrifice the assured relations they have established with certain wholesalers, and so support the wholesalers through their cartels.

A really far-reaching usurpation of the functions of the trader by the syndicates has not proved advisable, and so the large organizations such as the Coal Syndicate and

the Steel Works Association, each of which formerly employed a clerical staff of many hundreds, have now been considerably reduced. On the other hand, the attachment of trading organizations to individual big coal mines or steel works has been continued. When the syndicates were being overhauled after the inflation period these Mines or Works Trading Companies were the cause of many difficulties. The Coal Office, which now goes under the name of 'Kohlenkontor Weyhenmeyer and Co., Komm. Ges.,' is now merely an organization of the trading companies of individual mines. The general position as between the mines trading companies and the present syndicate, which bears the name of 'Ruhrkohle A.G.' (limited public company), is that in undisputed territory the syndicate alone sells, while in disputed districts trading by the mines' organization and the syndicate are equally permitted. Below these there are the different groups of traders graded according to the amount of their orders.

In the iron and steel industry the new organization of trading is still in process, especially where the syndicates for particular products in connexion with the Steel Ingot Syndicate have not yet been formed. For bar-iron, for instance, there are three wholesalers' associations, the Rhenish-Westphalian in Düsseldorf, the North-West and Central German in Leipzig, and the North-East German in Berlin, while in South Germany no association has been formed on account of foreign competition in that quarter. These wholesalers' associations include the works' trading firms — in the Rhenish-Westphalian Association they have ten out of twelve members. These wholesalers alone — with quite few exceptions — are allowed to deal direct with the Steel Works Association. The remaining traders are divided into four subordinate groups.

The traders in tubes and pipes have recently been attached more firmly than any other traders to the producers' cartel, which was anxious thus to strengthen a position seriously threatened by outsiders. The traders were therefore organized by the syndicate, and undertook not to buy from outsiders. The cartel of the clock manufacturers acted in the same way with its wholesalers. In the scrap trade, where the big open-hearth steel works are nearly the sole buyers, the pressure on the traders has come from the opposite end. The buyers' association fixed the prices which they might offer. It is true that the syndicates have not always been able to bind the

wholesalers. The cement syndicates, for instance, failed to force exclusive trading upon their traders; to avoid this, the traders encouraged the springing up of new outside producers. The same thing happened to the tube syndicate and the Thomas slag syndicate. But in general there can be no doubt that the well-organized cartels have deprived wholesale trade of a considerable part of its economic importance.

Retail trade hitherto has, as a rule, been less influenced by the producers' cartels than wholesale trade. Here it is necessary to distinguish between those retailers who deal direct with cartellized producers and those who deal with wholesalers. The former class generally succeed in passing on the higher cartel prices to the ultimate consumer more readily than the wholesaler; though, owing to their lack of capital, they are more heavily burdened by the conditions of trading which are fixed by the producers. This is, however, desirable from an economic point of view in so far as it effects a reduction in the numbers of retailers, an improvement in the overcrowded condition of retail trade. Thus the fixing of minimum prices by the producers also benefits the small trader by checking excessive competition. Any fixing of the upper limits of profit is naturally very difficult to effect in the case of retail trade. Up to now the spirits syndicate alone of the cartels was able to effect this, and the regulation it brought about was not considered satisfactory.

For the retail trader who buys from the wholesaler the regulation of wholesale trading by the producers is generally advantageous, because the producers have an equal interest in keeping the wholesaler's profits as low as possible, and in protecting the small trader from being fleeced. A wholesalers' cartel which is not in intimate alliance with a producers' cartel is generally not strong enough to do much damage to the small trader. If it manages to stabilize prices, this is also of advantage to the retailer. But, if wholesalers' cartels and producers' cartels are allied, even if the producers have an interest in maintaining retail trade and eventually protecting it against consumers' co-operatives, this normally leads to the retailer being wholly in their power, or at least in a position of abject dependence on them.

The small trader has sought to strengthen his position by way of price-cartels for passing on to the ultimate consumer the pressure put upon him by producers or wholesalers, but above all by means of *buying associations*. These have often been fought by the wholesalers. The furthest step towards organization has been taken by

the retail coal merchants in Cassel and Bremen, who resolved on the formation of a 'Retailers' Trust' on the model of the wholesale trading companies, i.e., the unification of their entire stock-in-trade. The independence of the individual merchant may disappear, but great advantages are realized through central buying, savings in transport, storing and personnel. But, generally speaking, retail trade is still individualistic in its outlook, a fact which is due to the large numbers of traders, violent fluctuations in this branch of trade, and the facility with which new firms can enter in the event of combination being achieved.

In recent times buying associations have reached considerable importance in retail trade; we may mention in this connexion the buying associations of the coal merchants, boot traders, glass and china shops, electrical contractors, certificated chemists, textile retailers, timber merchants, haberdashers and drapers, and druggists. This movement will certainly go still further. They are not merely useful as weapons against producers or wholesalers, but, even apart from their offensive and defensive uses, retail traders have found them valuable, especially in the grocery and provision trade. These buying associations are essentially *co-operative societies*. In wholesale trade, too, buying societies are beginning to play a part, especially in the case of artificial manures, with a view to strengthening the traders against the efforts of the cartels to eliminate them, also in building materials, hardware and chinaware. In March 1929 six big buying concerns in the textile industry with a turnover of 400,000,000 marks formed themselves into an association to fight against the conditions of delivery imposed by the producers.

The next step beyond the buying societies lies in the action of manufacturers or dealers making themselves independent of the syndicated producers by the erection or purchase of productive organizations of their own. It is, of course, important to distinguish this clearly from integration; we have here to do with a joint undertaking run by the customers of a cartel, i.e. with something analogous to the productive organizations of the consumers' co-operatives or of their joint organizations, the Wholesale Societies. Only we here find this step actually being taken by a monopolistic organization. In spite of the fact that the difficulties involved in such a policy are evidently very great, the movement had become extraordinarily widespread in the decade preceding the War, a proof of the remarkable strength of

the cartel idea, since we find this sort of joint undertaking, which often demands a large amount of capital, being built up around it. We may mention in this connexion the joint bottle factories of the Wine Merchants' Association, the joint ice and carbonic-acid factories of the Hotel-keepers' Association, the joint bandage factory of the certificated chemists, the erection of their own sugar factory by the jam factories, the acquisition of joint potash works of their own by the German Agricultural Society, of a carbonic-acid gas factory by a number of Innkeepers' Associations, of a yeast factory of their own by the Bakers' Associations, a silk factory of its own by the Silk Weavers' Association, and the acquisition of breweries by the Innkeepers' Associations of Berlin, Hamburg, Dresden, Essen, Elberfeld, Danzig, and by the Bottled Beer Association of Frankfurt-On-Main. The Association of German Department Stores founded a publishing business of its own as a weapon against the boycott levied against it by the Exchange Association of the German Booksellers, and a velvet ribbon factory of its own directed against the cartel of manufacturers of this product. It is certain that this step will be taken the more often as the firmly organized cartels increase in numbers, and wherever the linking-up of works of this kind to a single firm using the products of a cartel would not pay.

In recent times complaints have been frequently heard that the cartels put the buying societies, whether of finishing manufacturers, traders or the ultimate consumers, at a disadvantage, and will not concede them the advantages which the wholesalers enjoy. This is done in the interests of the wholesalers' cartels, through which the producers' cartels hope to strengthen their position, by way of exclusive trading. Buying societies make such an assurance more difficult. They also demand the same advantages as the wholesalers without binding themselves to the cartel, i.e., without the return expected for these concessions, which demand is evidently not always justifiable. Only where producers have no interest in maintaining the wholesale trade are they willing to treat direct with the consumers and their buying societies, as is the case, for instance, with artificial manure. In any case, it is in the interests of the national economy to support as far as possible the buying societies, especially those of the consumers' co-operatives, in their struggles against the cartels.

Chapter XVIII: Cartels and Trade Fluctuations.

In our previous discussions we have several times spoken of the cartels in their relation to trade fluctuations. In particular we called attention to the greater stability shown by the coal syndicate's prices since 1900, and shown that this is generally more beneficial to the consumer than violent price fluctuations on the scale of earlier years. But since 1902, when I first wrote on this subject, not much new material has been collected on the subject of the effect of cartels on trade fluctuations.

Recently in the '*Vierteljahrshäfte zur Konjunkturforschung*, 1928 B, the prices for free and for 'regulated,' i.e., cartellized, products to October 1928, have been compared with those of 1925. The prices of coal, raw iron, iron and other semi-manufactures, further of aluminium, nickel, cellulose, cement and pulp, have been collected to represent regulated prices, those for imported coal, iron ore, scrap, tinplates, copper, lead, tin, zinc, various textile fabrics, oils and fats, rubber, paper and pulp. This selection, and especially the use of prices for imported products, is open to many objections. It would in my view have been more valuable to compare with one another the price-movements of particular products. Even so the result is of interest. In 1926 the free prices fell to 85.7 as against 91.8 in 1925; the regulated prices only from 98.8 to 97.5. In 1927, a year of improving trade, the free prices recovered to 93.5, while the cartel prices up to January 1928 only showed a very slight rise up to 97.9; but in July 1928 they went on rising to 99.7, in October to 100, and in January 1929 to 101, in spite of the recession in trade which is evident from the free prices of 93.5, 90.5 and 86.9 for the same months. The Institute concludes: 'The fact that the cartel prices could still be further raised shows the power of

resistance to the economic situation.' In fact, there can be no question of the cartels having consciously tried to fight against the turn in trade; the truth is that a general reversal of the trade cycle had not yet begun.

From these comparisons it is not possible to draw much in the way of conclusion without going into the situation of the particular industries. In general, we are even to-day still dependent on theoretical considerations, and these imply a realization of the factors responsible for trade fluctuations. In this connexion it is only possible to give the most important facts.³³ Even if a cartel cares nothing for greater stability and merely tries to exploit the boom prices to the uttermost, it still does not follow that its prices will be higher than competitive prices. For as we saw in the days of the former 'coal shortages' and again frequently in the War and post-War periods, at times when demand predominates, competition stops altogether. Every producer is then in a sense his own monopolist. All one can assume at the most is that a cartel concluded at a time of rising trade will be able to raise prices *more quickly* than would otherwise be the case. Whether such action shortens the trade cycle depends on the amount of the price-rises and on the general conditions of supply and demand.

But, as we have already emphasized, the main effects of a cartel as compared with open competition are to be seen in times of *depression*. The cartels which manage to maintain themselves at such times, and possibly, too, those which are only formed then, prevent a fall in price to the extent by which it would have fallen in a state of open competition. The big problem, which, however, is insoluble in general economic theory, is : Which is best for the general public, a temporary fall of prices, to such an extent that the dearer producers are put out of business, or the greatest possible stability of price? This last is naturally only to be understood in a relative sense. Even in a single instance it would be very difficult to give a reasoned answer to this question. Also, we have already stated that even comparison with world prices is not a certain criterion of excessive internal prices in times of depression.

It must always be considered that monopoly and so-called open competition are not absolutely exclusive, but that, on the contrary, with contractual monopolies, fresh competition is always lurking in the background, ready to spring up if the cartels make profits beyond the average possible for any length of time. But such profits will not be made by all firms, and it is sufficient for the advent of new competition

that new competitors should think that *their* profits will be above the average, or, formulating the matter more exactly, above the marginal profit obtainable in that industry (Law of the Balance of Marginal Profits). Such higher profits nowadays are realized far more from technical advances or rationalization than from monopolistic agreements. The question of the effects of keeping prices relatively high in times of depression is also difficult to assess, even in single cases, because the cartellized firms as well as their customers are concerned not only with price but with turnover — with consumption. But turnover is influenced by the price to a very different extent in the case of different commodities, and also, as has been mentioned above, the need for a stable demand varies greatly in the various industries. If this requirement is important, as in raw material industries, this leads to efforts being made to obtain long contracts, which have to be bought by price-concessions to the purchasers, especially where the latter cannot count on a steady, continuous delivery to *their* customers. But this is precisely what the extension of the cartels should be able to secure, and this is then advantageous for the whole national economy.

That steady production, which may, however, go hand in hand with continual extension of the market, is of the greatest importance to the national economy in general, is not sufficiently realized, because the producers, especially in the finishing industries, are inclined to treat the so-called ‘favourable,’ i.e., sharply rising trade curve, which brings high profits, as the normal state of affairs.

The cartels are often blamed for preventing the weak producers being weeded out during depression. But this is not desirable, at least when, in the period of rising trade which follows, the necessary expansion of production is only possible through the erection of new works at a heavy cost involving selling prices at which even the weaker works could have survived. This frequently happened in the course of former trade cycles. As long as the cycles involve very considerable fluctuations of demand, as is usually the case with a number of the most important raw materials, it is naturally unavoidable that firms should work with a relatively small proportion of their capacity. One of the main advantages of the big integrated undertakings lies in their being better able to survive such periods, and one of the main merits of the cartels in causing greater stability in quantity marketed. This is brought about by long contracts, instead of by violent falls in price. With finished products the case

may to some extent be different; here consumption may be stimulated by big reductions of price. But nothing, generally valid, can be said on this point.

The cartels are a great stimulus to expansion of production and thus accentuate the danger of over-production and over-capitalization, and the opponents of the cartels combat the assertions that many cartels have favourable compensating effects upon the trade cycle by referring to this fact. As, however, we find that since the cartels have been developed to a considerable extent, i.e. since about the end of the nineteenth century, crises have taken a milder course, and that in any case the transitions have been less violent, we must conclude that the action of the cartels in causing excessive expansion of production must have been more than compensated by other factors. Among these there is presumably a greater understanding of the fluctuations of economic life and of necessity and desirability of trying to obviate them as far as possible. In fact, extreme over-capitalization is not a general phenomenon, but is confined to certain industries, primarily the outcome of great technical improvements, secondarily, as in the potash and perhaps the cement industry, of the special conditions described above.

To the argument of socialist writers that over-capitalization can be traced back to excessive profits in the cartellized industries and that the over-capitalization of many industries has been prevented in the main by higher wages, it may be replied that they are too inclined to generalize from the conditions of special industries only, in which giant concerns play a particularly large part. In these, above all in the heavy iron and steel, the chemical and the electrical industries, the formation, in socialist jargon the 'accumulation,' of capital, was due above all else to technical progress. The result would have been just the same in a state of open competition, since every new producer has an advantage over his older competitors simply through employing cheaper methods of production. On the contrary, we have observed that the cartels have often prevented too rapid an application of new plant and too sudden a supersession of the weaker firms. On the other hand, if there had not been sufficient capital available for the application to industry of technical improvements, German industry would have got behind that of other countries, much to the disadvantage of the workers in particular, a consideration which is of the greatest importance in dealing with present-day questions of capital formation and distribution.

The question — whether higher wages would have worked in the same direction — we shall leave over for the present. In any case, it is clear how difficult it may be to weigh effects, which in themselves can be defined exactly enough, against one another. In general, we may say that the cartels are just as likely to discourage overcapitalization as to encourage it. These two effects must have presumably balanced each other out hitherto, the causes of overcapitalization lying deeper than in the mere external forms of exchange economy.

The attempt of the socialists to prove theoretically that cartels, by increasing profits, always promote ‘accumulation’ and thus trade fluctuations, is quite beside the mark. It is an extremely one-sided assertion to say that ‘the cartels, if they are to have any sense at all, must lead to higher profits’ (E. Lederer). We have seen above that the lessening of capital risk and the prevention of a competitive struggle among the producers are often just as important motives, and that they are often only concerned to avoid a *fall* in profits. Such an assertion is just as one-sided as it would be to say: ‘The trades union movement, if it has any sense at all, must lead to higher wages’; whereas every one knows that workers *and* employers are both often interested in preventing a fall in their income or in the usual business and labour conditions.

But apart from this, the conclusion drawn that the ‘accumulation of cartels’ profits’ accentuates the violence of the trade cycle, is either false or exaggerated. These conclusions are based exclusively on the big companies or concerns; and in their case I myself have pointed out that ‘self-financing,’ the formation of capital within the firm itself, may lead in certain branches of industry to overcapitalization, to a too rapid exploitation of technical progress — over-capitalization which is, however, generally made necessary precisely from fear of competitors. It is far less the cartels than the joint-stock system which has this effect; the cartels here, too, have rather a tendency to slow down development.

To generalize from these cases of self-finance and expansion is to forget that 45 per cent of German workers still work for small and medium-sized firms, and that even if the cartels do raise profits for a time, it by no means follows that the increased income goes mainly towards the formation of capital, still less that it is invested in the cartellized industry. Specially large investments of capital in an

industry are not due to a higher return *having been* obtained, but to the expectation that it *will be* obtained; by means of credit institutes and participation the savings from the most varied forms of trade and industry are mobilized.

The present terrific rate of interest in Germany tells very strongly against widespread over-capitalization, and suggests rather that, apart from relatively few big concerns, capital formation in present-day Germany is insufficient for small or medium-sized firms. This is due on the one hand to the fact that the yield of these branches of trade is too small and they are excessively burdened with taxes, and on the other to the people with fixed incomes being some *unable* to save much or at all and others who are *unwilling* to save through expectation of a pension or of public support.

We therefore dispute the assertion that the contractual monopolies have any important effect on capital formation. The main source of more than average yields is differential profit, which always emerges even in open competition, as long as this does not go to extremes and lead to monopoly by the few cheapest producers — and even then new competition is always latent in the background.

The differences in profits make it difficult to compare increases of profits in times of boom with the increases of wages (and certainly not with the increase of the *wages-costs* contained in the price of the product, since these are not income at all). If the prices of cartellized products increase faster in times of boom than do free prices or wages, it is in the power of the trades unions to remedy this, and it is easier for them to obtain increases of wages where cartels are concerned. But in neither case ought we to generalize too much. We have observed above that, in times of boom, the prices quoted by outside firms have often risen higher than those of the cartels. It is true that these prices are generally not paid by all the customers, but this is still more the case in a state of open competition, and the more the prices of raw material or semimanufactures fluctuate, the more differential the profits which result in the further stages of manufacture. The seller of raw materials or of labour cannot get at these profits by any form of monopolistic association, whether cartel or trades union, since, at any given time, these can only get much the same price from all, a price determined by the Law of Balance of Marginal Profits.

The following general conclusion may be drawn: should the cartels prove able over

a fairly long period of several cycles to keep prices more or less stable, as has been the case with certain raw materials and semi-manufactures in the coal, iron and steel industries, then their influence on the national economy will be favourable, the more so if they are able to prevent a violent curtailment of employment in depression. A strong tendency to expansion is generally the result of technical progress, but it may be a symptom of excessive price-increases, and, in that case, should be warded off by timely price-reductions. Stability of price for fundamental raw materials is of such importance to the national economy that it may justify prices which are on the average somewhat higher than they otherwise would be. For the prices of such products the well-known maxim of taxation theory holds, that 'any old tax is good, any new tax bad.' This is even truer of prices than of taxes. In other words, when the national economy has got used to certain prices for fundamental raw materials, the less these are altered the better.

Up to now, we should not suppose that the influence of the cartels upon price-formation or upon the level of profits has been very great, and we should not generalize from a few particular cases which were peculiarly well situated from a monopolistic point of view. On trade fluctuations, too, the influence of the cartels has probably not been very considerable. Beliefs or expectations, psychological factors, are here far more important than organizations in themselves. With the help of the cartels, cyclical movements of prices have been to some extent rendered less violent, and the lower levels of the curves have been influenced more effectively than the peaks. It would be more valuable economically if the quantity marketed were stabilized. Even if it could be proved that monopoly organizations shorten the periods of rising trade and lengthen the depression (E. Lederer), this would not necessarily be a bad thing, especially for the workers, provided they managed to secure more continuous employment. The extent to which these two results occur must be carefully weighed before passing judgement on their economic value, and this is naturally a very difficult task.

Chapter XIX: International Cartels.

Owing to their increasing importance, we shall here deal in a special section with the development and influence of international cartels. We mentioned above the Neckar Salt Association formed in 1828 between Baden, Württemberger and Hessian Salt Works. Since 1867, this combine also had agreements with the syndicate of Eastern French Salt Works, founded in 1863. In the seventies and since the early 'eighties in particular (the Bismuth Syndicate, the Luxemburg-Lorraine Iron Association of 1879) cartels were often concluded between producers of different States. In my book, *Die Unternehmervverbände*, of 1897, I was already able to enumerate forty such cartels, twenty-two concluded by German producers with English, thirteen with Austrian, ten with Belgian and nine with French producers. Since that date there has been a great extension of the movement, and although it naturally received a set-back through the War, yet it has begun again since the War with remarkable intensity for reasons which I shall set out below.

The *forms* taken by international cartels are naturally the same as those of the national cartels, but their significance is different. In order of decreasing frequency we may enumerate the following types :

The loosest and the commonest form of international cartel is naturally the *territorial cartel*, reserving the market of a given nation to its own nationals. This is, above all, the cartel form, which retains its importance in the case of the great international *concerns* as well. There are numerous agreements of this type in the electrotechnical, chemical and oil industries. The assignment of neutral countries to this or that group is also relatively common. Thus, for instance, the first rail cartel

concluded in 1884 between Germany, England, Belgium and Austria, besides guaranteeing to the contracting parties the exclusive supply of their own countries, regulated in addition the market in most other countries of the world. The same was the case with the first international dynamite cartel of June 1886, by which the Anglo-German group came to an agreement with the French Societe Centrale de la Dynamite, dividing up the market in most other countries. *Price-agreements* are, generally speaking, rarer, and are then generally combined with a territorial cartel. Regular *syndicates* with distribution of orders or of profits are also rare (e.g., mirror-glass); the mere name of 'syndicate' does not necessarily imply that it possesses the more solid form of quota-fixing organization.

Only in the chemical industry, that main field of international cartels, are these two forms the commonest, because normally only a small number of producers are concerned. International *production cartels* are probably the rarest of all, because the control necessary to mutual restrictions upon production is generally insufficient in the case of international associations, even where the desirability of restriction of production is recognized on all sides. Quotas, i.e. of orders, are perhaps somewhat more common, and form the present basis of the German-French-Belgian Steel Ingot Syndicate. Quotas may be confined to export or may also be extended to the home market as well. The latter is naturally more difficult to achieve, but generally proves necessary in the long run, if increasing necessity to export and the consequent break-up of the cartel is to be avoided.

The *patent-exploitation cartels* have a special significance internationally. These are generally territorial cartels, which include monopolistic allocation of patent licences for particular countries. There are often price-agreements in connexion with these.

Another distinction is also of importance in dealing with international cartels. Two types of international cartel ought, namely, to be distinguished: on the one hand, *associations between the national cartels of the different states*, and on the other, *direct monopolistic agreements between producers in different states*. The latter are only feasible when concentration has reached a very high point, or for special products which are only manufactured by quite a few producers. International agreements generally require that a *national* combination should previously have

been formed, but this need not always take the form of a cartel. The formation of large *concerns* in any country, i.e., the union of several firms under one direction, facilitates the conclusion of international cartels, and this is still more the case with *international concerns*, which already extend their own activities over several countries. Since the formation of large international concerns is greatly on the increase, international cartels between these are particularly likely to occur.

There are also international cartels which combine both forms, concluded between individual firms in certain countries and national cartels in other countries, e.g., the International Incandescent Lamp Cartel, in which the French producers are already combined in the Compagnie des Lampes, while in the other countries individual firms participate; or in the International Aluminium Syndicate, in which, again, the five French producers have a solidly based syndicate, whereas in the other countries firms have joined individually.

Here, too, *international trade associations* have frequently been the forerunners of international cartels, and again international *conferences* the forerunners of the trade associations. A specially important international trade association of this kind was the pre-War International Association of Cotton Spinners. An instance from recent times is the World Conference of the Leather Industry in London, which has already led to the conclusion of international agreements.

It would take us too far to attempt at this point to give even the most essential points in the history of international cartels; we shall therefore merely enumerate the most important branches of industry in which international cartels play a part.

The most numerous international cartels are probably those which have been concluded for the various *chemical products*, generally between a very small number of contracting parties. Only a few of them have been allowed to become known, and these have often been of an ephemeral nature, since new producers have subsequently taken up production. But there have been also solidly organized international syndicates in the chemical industry, as, for instance, the Bismuth Syndicate, which was concluded in the seventies, the Borax Syndicate, the Quinine Syndicate, the Acetic Acid Syndicate, the Carbide Syndicate, and above all the cartels of the Explosives industry.

Shipping probably takes second place in respect of its international cartels.

According to an American inquiry, there seem to have been no fewer than eighty cartel agreements in this industry before the War. Some of these go back to the eighties. The most important were the International Mercantile Marine Company and its alliance of 1902 with the two big German steamship companies and the Atlantic Conference of 1908; the most extensive was presumably the 'Mediterranean Conference' of 1908, in which fifteen German, Austrian, British, American, French, Italian and Spanish shipping lines took part.

The third place in respect of frequency is presumably held by the iron and steel industry. Since the first international rail cartel of 1884, the principal cartels concluded have been those for tubes, enamelled ware, and wood screws; but there have also been cartels for many other iron wares, recently, as is well known, also for steel ingots.

The most important of the other metals, zinc, copper, aluminium and lead, and many of the commodities made from them, have also been the subject of international cartels. Here we must distinguish agreements between a few states, such as the many (Germano-Belgian cartels for zinc, from the truly international cartels which included all the producing countries or at least the most considerable of them; such was for a long time the Aluminium Cartel — although America did not participate officially in the European Aluminium Cartel — and is now the case with the zinc and copper cartels. The Copper Cartel concluded in the middle of 1926 led to very considerable increases of price — from 14 cents to $24\frac{3}{8}$ cents for a time — though this was not entirely its doing. For nickel, an international trust was recently formed under the leadership of the Mond Nickel Company.

There are further numerous international cartels in the stone and earth industries, among which especially the mirror-glass syndicate of 1903 did not escape publicity. But the International Bottle Cartel of 1907 is just as important; this was formed to take up the Owens patents. There have also been international cartels for cement, porcelain, table glass, watch glass, etc.

In the electrotechnical industry there are numerous international agreements between the big concerns; here, too, cartels for patent exploitation also play a large part. The best known is the Incandescent Lamp Cartel of 1902. It was a sales syndicate, to which all the German, Austro-Hungarian, Dutch and Swiss producers

belonged. In 1913 it was dissolved, but reappeared after the War in a looser form, in connexion with a number of financial participations between most of the producers, and to-day includes, besides the producers of the countries already mentioned, also those of Scandinavia, France, England, Italy, the United States and Japan.

The international cartels in the textile industry have hitherto been less numerous; they have been most frequently concluded for silks, but also for linens.

Since the War the movement for the formation of international cartels has certainly become much more vigorous, and still greater has been their increase in economic and political importance. The causes of this are to be found in:

(1) The *arbitrary breaking-up* of hitherto compact economic territories, and the creation of new state and customs territories with economically bad frontiers, and also in the increasing tendency of quite a number of states to try and shut themselves off from others.

(2) The fiercer *competition* in the world market due to the impoverishment of many countries and the artificial stimulation given to many industries; also in the increasing *world-over-production* of many commodities due to rapid technical improvement and inability of purchasing power to keep pace with increased production.

(3) The fiercer competition to which many countries were subjected by the *depreciating currencies* of other countries. It is true that these conditions have also rendered the formation of international cartels difficult, but since nowadays they generally find themselves threatened with anti-dumping duties, the producers in the countries with depreciating currencies cannot count on being able to export for long and therefore often prefer to come to terms with their neighbours through the medium of cartels.

(4) One factor in the rapid increase of international cartels in recent years has undoubtedly been the fact that the governments and parliaments of many countries were under the influence of the War mentality and paid too little attention to economic considerations, so that the producers had to take into their own hands the business of coming to an understanding across the national frontiers.

(5) Finally, the movement towards the formation of *concerns* and amalgamations may be regarded as a cause of the development of international cartels, since the

resulting concentration of an industry in a few firms simplifies international agreement. In particular, where there are some big concerns which extend their activities over many countries by means of subsidiary companies, international cartel agreements normally result. Thus there have long been such agreements between the big concerns in the oil industry, the electrotechnical, dyestuffs, and explosives industries, etc.

In general it may be said that whereas formerly international cartels were considered from a strictly *economic* point of view, they have now become an important instrument of *political* policy. Formerly they were praised as means for eliminating competition which was frequently uneconomic and for helping an industry that was often greatly depressed; and complaints were made of the possibility they afforded of forcing up prices, a possibility often exploited to the full by the national cartels supported as they were by their agreements with foreign producers. In general, however, people were far more interested in the international *concerns* — in the ‘world oil monopoly’ which Rockefeller was supposed to be aiming at, in the American Tobacco Trust’s penetration of Germany, England and other countries, in the German potash monopoly, in the great firms in the German dyestuffs industry which were always entering into closer relations with one another, and their technical superiority — and in a number of other big concerns. Not till after the War did the question of international cartels and concerns become to a great extent a *political* problem, looked upon in a distinctly different light from former days. Whereas formerly they were perhaps feared on economic grounds, they are, generally speaking, desired on political grounds. They are expected to help to bridge over the enmities created or inflamed by the War, or at least to mitigate their disastrous influence upon the economy of the different nations and on the world economic order.

From this point of view especial importance attached to those international cartels which came into existence owing to the dismemberment of hitherto continuous and economically complementary political territories of Central Europe by the peace treaties. Thus quite a number of cartels have been concluded between Austrian producers and those of the various Succession States. To this class belong in particular several cartels in the iron and steel industry between Austrian, Bohemian,

Hungarian, Polish and even Roumanian producers, further cartels for pottery, cement, etc. To some extent former financial connexions have been kept up by means of holding companies domiciled in Switzerland, e.g. the *Tarbouches Trust*, the timber-holding *Gesellschaft für Werte der Holzindustrie*, the *Ofa Holzindustrie A.G.*, the *Thonet-Mundus A.G.*, and others.

With the very difficult economic conditions created by the parcelling out of Upper Silesia we shall not deal here; these, as is well known, have not yet led to durable agreements between Germans and Poles. On the other hand, we shall say something of the importance of the industrial cartels in achieving the restoration of the economic unity of the West German industry with that of the neighbour states.

Here the first place is held by the agreements between the potash industries of Germany and Alsace. The German potash monopoly had been broken by the separation from Germany of the Alsatian potash mines, and both parties now had an interest in not injuring each other mutually by excessive competition. But only in 1924 were the first agreements concluded between the German statutory syndicate and the *Société commerciale des Potasses d'Alsace*, the French syndicate which included the French State works, and the *Mines de Kali Ste. Thérèse*, the sole private firm. Each party reserved to itself its own national market, and the export to America and Sweden was regulated. In 1925, however, an agreement was concluded covering the whole international market, in which the Alsatian works were to participate up to 30 per cent and the German Potash Syndicate up to 70 per cent, whereas in the agreement for sharing out the American demand the proportions had been 1/3 and 2/3. Provision was also made for joint advertising and selling organizations in foreign countries. The above division of quotas, however, was only to hold good for sales up to 0.84 million tonnes. Should the amount marketed abroad exceed this figure, both countries were to participate in the surplus in equal proportions. Total production expanded much faster in Alsace than in Germany; it amounted to 320,000 and 400,000 tonnes in the years 1927 and 1928 respectively, as against 1,033,000 and 1,185,000 tonnes for Germany.

A permanent understanding between the potash industries of the two countries is rendered difficult primarily because in Germany excessive production is prevented by the Potash Syndicate, whereas in France this is not yet the case. A cartel naturally

becomes impossible in the long run if one of the parties to it is continually increasing the number of its works, and on this ground demanding ever-larger quotas of the quantity marketed. This state of things must be remedied by agreement.

The situation is still more difficult in another even more important branch of production, namely, the iron and steel industry. In consequence of the annexation of the works in Lorraine and Luxemburg and of the Upper Silesian works, as well as of the Saar works which had nearly all come into French hands, Germany had lost 58 per cent of its former productive capacity for pig-iron, and 65 per cent of its capacity for steel. The Lorraine works had been tremendously extended with the aid of the lavish war indemnities; and the German works too, in order to cover Germany's large demand for iron and steel and to find a use for the large quantity of smelting coke produced, had been extended to such a degree that the productive capacity of the old territory of the Empire was almost attained again. In consequence of this the German Steel Ingot Syndicate had to order a restriction of 25 per cent.

However, the mining industries of France, Germany and Belgium-Luxemburg are so dependent on one another that international agreements became a necessity. Serious negotiations could only be begun after the end of the Ruhr occupation. A definite result was first reached in the case of *rails* and *tubes*. The formation of an international cartel for the former was rendered easier by the fact that since 1884 there had been several international cartels and since 1904 a solidly organized syndicate in this field. The Erma (European Rail Makers' Association), which was founded in 1927, comprises the following nations with their quotas: England 43 per cent, Germany and France 19½ per cent., Belgium 11 per cent, and Luxemburg 7 per cent; it was subsequently joined by Austria, Hungary and Czechoslovakia with 4 per cent additional percentage; only Poland and the United States remain outside. It seems, however, as if some of the American export to Europe was included in the large English quota. The rail cartel is only concerned with export, the inland market being reserved by each country, France and England also reserving their colonies though not their mandated territories. The London office of the combine, which existed even before the War, records tenders for rails, and tries to assign them to the various countries more or less according to their quotas. The subdivision of the contracts is undertaken in Germany and France by the national cartels, in Belgium

and Luxemburg by the biggest producers in those countries (Cockerill and Arbed).

The existence of the international rail cartel was endangered, since England had for a long time exceeded its quota. However, the contract which was due to run out in March 1929 was renewed and even extended. The quotas remained more or less the same. This time America participated officially, and the former English quota has been split up into 24.75 per cent, for England and 18.5 per cent for the United States. It is thus again possible to speak of the Irma (International Railmakers' Association). The pre-War quotas were: Germany 20.13 per cent, France 4.47 per cent(!), Belgium 12.34 per cent, England 37.36 per cent, and the U.S.A. 25.7 per cent. For production in excess of quota there is a fine of 10s. up to 37,500 tons, thereafter 20s. The rail cartel is a purely export cartel, the production quotas and price-agreements are solely concerned with export.

The *International Tube Cartel* had its beginning after the foundation of the German Steel Ingot Syndicate at Düsseldorf, in agreements with the Bohemian works and with the Bismarck works in Polish Upper Silesia. The actual cartel was concluded in 1926, and included also the French and Belgian works. At first these were partly territorial cartels, and partly price-agreements, but subsequently an allotment was carried through, not merely of the quantity exported, but of the total production. The quota of the German Tube Combine amounts to 60 per cent. After a long struggle the Polish works came in at the end of 1927, and the English at the end of 1928.

The existence of the Tube Cartel, too, seemed somewhat insecure, as owing to the prices being kept high, new producers sprang up in various countries. Yet in April 1929 the cartel was renewed with the inclusion of the United States, so that it is in this case possible to speak of a world cartel, at least for some sorts of tubes, e.g. gas, water, and oil-line pipes, since Italy and Spain do not produce for export. The Continental States have quotas for their home markets too, whereas the agreements with England, Canada and the U.S.A. are only concerned with export. The quotas are different for the different sorts of tubes, and negotiations with regard to some of them are still being carried on. As the English producers have no cartel, five individual works have their own participation quotas.

Fines have been provided for exceeding the quota by more than 5 per cent, for an excess production of 5.10 per cent. £1, of more than 10 per cent. £5 per ton. In

addition a reserve fund is being formed (by a levy of 1s. a ton) which is evidently to be used to fight outsiders. A number of special agreements were concluded in connexion with the cartel, e.g., in respect of South Africa. The control of the execution of the agreements, as with the rail cartel, is exercised by the London firm of Marwick, Mitchell & Co. as trustees.

The long negotiations between the West German, French and Belgian-Luxemburg iron and steel industries pursued aims which went far beyond those usual in other international cartels. The principal thing was for the present French iron and steel industry, which can scarcely market half of its own production in its own country, to recover its former German market, and prevent extreme competition on the world market. This aim was evidently unattainable by international cartels for particular products; it was indispensable to take in hand the excessive production of pig-iron. By the middle of 1925 an agreement was near being concluded whereby the German Steel Ingot Syndicate would take into German customs territory a quantity of 1¾ million tons yearly (diminished by the restriction quota of the German Steel Ingot Syndicate current at the time), an arrangement which would have cost the German combine about 7 million marks a year for customs duties. One and three-quarter million tons are about 12 per cent of the quantity allotted by the German Steel Ingot Syndicate, but only about two-thirds of the former participation in the German Steel Works Associations of the members now detached from it, their former quota amounting to about 2.8 million tons.

However, these agreements fell through, and it proved impossible to reach an agreement for steel ingots until September 1926. This West-European Steel Ingot Association, or 'Entente cordiale de l'acier,' aimed above all at gaining a market for the French surplus raw steel due to the annexations by getting it worked up in Germany, and so avoiding the superfluous and expensive erection in France of plant of which there was already a sufficiency in Germany. After long negotiations it was arranged for an allotment of steel in Germany, France, Belgium, Luxemburg and the Saar territory according to a complicated schedule. The German quota remains small as long as only small amounts are produced, and in this case the amount of employment at the German works is less than in the works of the other countries, which have been so greatly extended in recent years, but, after that, the German

quota rises more rapidly than those of the others up to a certain maximum. With a yearly production of 29.28 million tons the German quota is 43.17, the French 31.18, the Belgian 11.56, the Luxemburg quota 8.3, and that of the Saar territory 5.78 per cent. For every ton of raw steel produced 1 dollar has to be paid into the pool, for every ton of excess production 4 dollars, accounts with the pool being balanced up quarterly. If a country has produced less than its quota, it receives on the difference 2 dollars a ton up to 10 per cent of its quota, but this is only for the first few months.

These payments into the pool are expected to prevent price-cutting on the world market and also excessive expansion. A neutral trustee company controls production and accounting. There is no agreement for mutual protection of the home market nor for price-fixing; all this is reserved for future agreements to be concluded between the countries concerned. After long negotiations agreements have in fact been concluded according to which Germany takes large quantities of semi-manufactures and rolling-mill products from Lorraine, Luxemburg and the Saar territory. The Steel Ingot Syndicate lasts till 1st April 1931; notice could have been given to terminate it on 31st October 1929, but it was prolonged provisionally till 31st March 1930. There were also various cartel agreements concluded between the western countries, but an attempted 'western' steel syndicate dissolved again in 1919.

At the end of 1926 the International Steel Ingot Syndicate was joined by the Austrian, Hungarian and Czech works, but not by the Poles, who also obstructed the formation by this 'central European' group of a cartel. The participation of this group is 7.272 per cent.

The stabilization of prices and production which the I.S.I.S. was expected to effect has not occurred, because the western group, in spite of the slight capacity of their own markets, were determined to produce up to the full extent of their own high quotas. Germany then realized her mistake in conceding to those countries relatively too high quotas, in order to prevent the cartel falling through altogether. She had to pay heavy fines for exceeding her quota in the first quarter of 1927, which fines altogether are supposed to have amounted to 36 million marks in the first two years of the agreement, and which were simply used to finance French dumping. Since Germany could not induce the others to increase her quota, it was decided to divide up the German quota into an inland quota of 72 per cent and an export quota of 28

per cent and to reduce the fines for excess production on the former fraction to 2 dollars and ultimately to 1 dollar a ton. This meant a considerable improvement in respect of home production. But in July 1928 the fines for exceeding the quota were reduced for all members, and this reduction only affected Germany's export quota. If the agreement is not to be denounced, it will be necessary to work out a different distribution of quotas.

In November 1926 the international pig-iron agreement between Germany, France and Luxemburg was supplemented by a quota agreement for *rotted products*, providing for their importation into Germany. About 6½ per cent of the German home supply is bought from those countries by the German iron associations at German internal prices and passed on to the German consumer, 3.75 per cent being allotted to France and 2.75 per cent to Luxemburg. The quotas are then further subdivided for the different rolled products, semi-manufactures, bar-iron, wire, tinslates, and so on. If Germany delivers rolled products to France, these are then deducted from the French quota. Special arrangements are made for the Saar territory.

Partly in connexion with the I.S.I.S., partly independent of it, various other agreements have been concluded in the iron and steel industry, of which the most important is probably the Rolled Wire Combine. The participation quotas include the home markets also (Germany 57 per cent, France 23 per cent, Belgium 14 per cent, Luxemburg 6 per cent), but the home markets and certain other markets are expressly reserved to the various countries. Minimum prices and fines for exceeding the quotas are also provided. The accounting bureau is at Liege.

An international wire combine, concluded at the beginning of 1927 without the French, has already broken up again. At the end of 1928 a *strip association* was also concluded between the German, French, Belgian and Luxemburg producers. There were some short-lived agreements for ship's plates; for wood screws, wire nails, and enamelled ware there were already international cartels in existence before the War, and these have been renewed since.

Most of these cartels may not be very durable or altogether satisfactory in their working. But in the heavy industries above all which attach the greatest importance to regularity of employment, international cartels are going to play a very much

greater part than they have done, in spite of all difficulties. The great problem of the day, apart from the renewal of the iron and steel associations, is to arrive at international agreement in *coal-mining*, but this is rendered difficult by its close connexion with the iron and steel industry and by the protective policies of the States.

A few words ought here to be added as to the *estimate* we should form of the significance of international cartels, and especially of their connexion — so strikingly evident at the present day — with the system of protective tariffs.

If it is true of the first cartels formed within an industry that they are ‘children of necessity,’ this is even more the case with the international cartels. Their formation has been regularly preceded by a most violent competitive struggle, and the conclusion of the first agreement has been regularly attended by the very greatest difficulties. This is due in no small degree to the existing differences between the national legal systems, and it is these that facilitate the early breakdown of such agreements or the secession of individual firms or of entire national groups. Only where we have to do with agreements not between several national cartels but between a few big concerns, i.e., especially in respect of new industries, patent-exploitation agreements and the like, do we find agreement easier to reach and more durable. All the other early international cartels in all branches of industry have been of but short duration.

Thus it is the big mass-production industries, above all the highly concentrated and already cartellized heavy industries, and apart from them the specialist industries which comprise but few firms, that are the most suited to the formation of international cartels. It may, in general, be said that international monopolies of raw materials are much more dangerous than monopolies of finished goods. For in the case of the latter a monopolistic excessive increase of price will quickly show itself in a diminution of demand, and the competition of some substitute generally comes into play. But with raw-material monopolies purchasers and finishers always try first of all to pass on the price-rises, if possible with a slight addition on their own account, to the next consumer; and here the competition of a substitute is often out of the question, and so is the advent of new producers, because even if the original material is not monopolized, yet the starting of fresh works requires a very large

amount of capital. There is not much that can be said in general on the subject of international cartels, partly because we have not overmuch material at our disposal, and partly because the conditions in the national industries linked together by these cartels tend to vary greatly from case to case. International cartels have, even more than national, a conservative character, and do not therefore help towards economic rationalization. Even though their life is shorter than that of national cartels, they might rather be expected to work in favour of a stabilization of price, though these prices would regularly be higher than in a state of free competition. But since most international cartels are very insecure, this effect has been produced relatively seldom.

Here, too, the effects of the different cartel forms are of course different. From the standpoint of securing the most rational world division of labour, one would be inclined to judge the territorial cartels somewhat unfavourably, since they keep alive national concerns which work at a high cost, and so prevent a possible lowering of price. But if one views these cartels, not by themselves but in connexion with the nowadays universally accepted principle of protection, then they take on quite another aspect, since they may serve to prevent dumping, or the policy of cheaper foreign sales, both in the countries of the two contracting parties and possibly also in other countries. They may thus put a limit to further demands for protection and thus counteract the incessant rises of protective tariffs.³⁴ The prevention of dumping is above all in the interest of the national finishing manufacturers, who are damaged by the difference between the home and world prices for raw materials and half-manufactured goods.

And so we come to one of the most interesting questions connected with the international cartels, a question which has been curiously little discussed, namely, that of their relation to protection. On this point we may attempt the following general statement: It is true of international as of national cartels that they may occur under a free-trade system as well as under protection, since dumping, or cheaper selling abroad, which is the main stimulus to the formation of international cartels, is also possible under free trade. With protective tariffs they are certainly far more common because then prices at home are usually screwed up to a level which far exceeds the cost of production and the world price. The protected country can more

easily export at lower prices; and an increase of imports into such a country is also easily possible, when prices are screwed up to such a height that they exceed the world price plus the amount of the duty. Then we have every now and again that ridiculous state of things in which each one of two countries exports the same goods at specially cheap prices to the other — as was occasionally the case, not merely between European countries, but actually, in spite of the high costs of freight, between Germany and America. In such cases, unless political measures are taken, an international cartel is the best remedy.

One main cause of international cartels is, however, the frequent *changes* made in tariff policy, since it is one of the primary aims of cartels in general, including international cartels, to bring about greater stability in the conditions of an industry. International cartels, therefore, especially in their most general form of territorial cartels, have above all else the task of remedying or possibly even preventing the disturbances in an industry caused by changes of national commercial policy.

On the other hand, we must not overlook the dangers of international cartels due to their strengthening an existing national monopoly. The regulation of a trade by international agreements is often even more ruthless than in the case of national cartels, but this regulation system is generally in imminent danger of collapse, as with national cartels. There is little sign of any greater stability of world prices having been effected by the international cartels. Possibly something of the kind might be traced in consequence of the agreements between the big international *concerns*, in the oil industry for instance or the explosives industry. However, no investigations are available on this point. It might here be mentioned how international cartels between the most important competing countries make it easier for the *trades unions* to exact higher wages, because it is not so necessary to have regard to foreign competition; still it is evident that this is not an important factor in industries which are very dependent on export.

If with national cartels there is a danger of their keeping inefficient firms alive and obstructing the necessary process of elimination of the weaker, so with international cartels there is a possibility of this happening for *whole industries*. They may hinder a rational 'division of labour between countries.' But this is a danger of the protection system in general. On the other hand, if international agreements, e.g.,

with regard to the employment of new technical improvements, somewhat retard their application to production, this may be advantageous to countries that are badly off for capital. They then work out in the same way as agreements for the limitation of armaments, where otherwise every state seeks to outdo all the others. The application of technical improvements cannot be postponed for ever, but superfluous competition may perhaps be avoided. Certainly this is more easily brought about by international concerns than by cartels.

Whether protective tariffs facilitate or obstruct the formation of international cartels is impossible to say in general terms. It may perhaps be asserted that they make international cartels superfluous for industries which do not export; but the necessity to export is frequently developed or increased by protective tariffs, and they thus indirectly favour the formation of international cartels. Still this is only the case when similar conditions prevail in other countries. On the other hand, if efforts are being made to conclude an international cartel, this may for a time intensify the demand for protective tariffs, with a view to putting the negotiators in as favourable a position as possible. International cartels may also supervene when the industry of one country is so superior to that of others that it is able to compete abroad in spite of the protective tariffs of other countries. International, like national cartels, are by no means always agreements between competitors of more or less equal strength. This is, however, less the case with international cartels, because here protective tariffs may partially compensate for the superior strength of one of the competitors.

In any case, it is in times of depression that the demand for international agreements in industry grows, and the formula in which thirty years ago I characterized the relation between tariffs and cartels, and the truth of which is generally recognized to-day, holds of international cartels too — ‘tariffs are not the cause of cartels, but unfavourable trade conditions make producers desire both tariffs and cartels.’ If the economic situation of a trade is very bad, as a result of foreign competition especially, producers will first try to get State subsidies, or protective duties, or higher protective duties. But if, as happens nowadays, this practice is very general, if the States keep on raising their tariffs higher and higher against each other, thus, with the help of their national cartels, intensifying competition on the world market, then they will take refuge in international cartels. After a period of

violent international competition they will try to secure a cartel in order to overcome the unfavourable situation of the industry in all the competing countries. So we may say : Protective tariffs are not in themselves the cause of cartels, but the intensified competition for export and the general over-production which particularly in times of depression naturally result from protective tariffs — these are the causes of international cartels.

On the other hand, there is some ground for the assertion that international cartels make protective tariffs superfluous, since a territorial cartel by which each contracting party reserves to himself his own home market excludes the foreign products far more effectively than any duty. This may be true of the degree but not of the duration of the effect; international cartels are far too ephemeral formations and have too insecure a legal basis for this purpose. Besides, it must be considered that, except in the case of a world cartel, the firms are secured against other firms or cartels in the contracting states only, so that they are hardly ever insured against all quarters at once. And with the increased modern tendency towards exclusiveness and self-sufficiency, no country at present will give up protective tariffs as the most important means to secure this self-sufficiency.

In general, we may very frequently observe the following set of causal connexions: Protective tariffs and national cartels lead to international dumping. Dumping leads to international cartels. But international cartels lead to dumping upon the market of third parties. This leads to a further increase of protectionist tendencies in these countries too, and so to the springing up of fresh competition from those countries, and so to world overproduction, which is to-day so evident in so many fields and which is increased by the fashionable nationalistic tendencies. Here the only remedy lies in the international allocation of production; this is the sense of the Germano-Franco-Belgian iron and steel treaty. But such agreements are difficult to bring off, and only the future can teach whether they are capable of lasting. International *restriction* of production is still harder to bring about, and as it has to be equal in all the contracting countries it will normally not lead to any rationalization of world economy.

So all we can expect of the international cartels at present is a *restriction of dumping* — as a rule, no curtailment of the protective system and no considerable

reductions of price. The International Steel Ingot Syndicate aims, with its payments into the pool, among other things, at raising world prices. A reduction of home prices could hardly result from this, unless possibly marketing conditions abroad deteriorate, and they have to seek a market for their surplus production at home. A price-reduction could only result from the action of international cartels if the agreements went so far as is intended with the Steel Ingot Syndicate — if they arranged for some countries to give up the production of particular commodities, or at least the extension of their works, and leave themselves to be supplied with certain products by others who are better placed or better equipped for this production. This naturally has to be bought by sacrifices on the other side, and the danger then naturally arises of the protective duties being previously raised in order to get a high price for this ‘sacrifice.’ But supposing such agreements are concluded, and supposing they are really observed and that they last some time, then those protective tariffs which nowadays as ‘educative tariffs’ aim at developing unsuitable industries become largely superfluous. In this case a ‘division of labour by countries’ would be realized which alone could give effect to the economic tendency towards the lowest possible price.

International concerns, those great complexes of firms spreading over several countries, rather than the international cartels, may be expected to eliminate protective tariffs; but it will be a very long time before an ‘economic League of Nations’ takes these problems in hand and brings about a reconciliation of economic interests, so that finally one country gives up one industry and another country another.

Part IV: State Regulation Of The Cartels.

Chapter XX: Legal Regulation Of The Cartels In Germany.

The question how the cartels should best be regulated by the State is almost as old as this form of organization itself. Yet this regulation is to-day only at the very beginning. We find that the point of view expressed in the English and American law, according to which 'contracts in restraint of trade' are forbidden in principle, has almost everywhere been abandoned. This has proved absolutely impracticable; and today, even in America, cartels for export are explicitly permitted, while in England the courts have not been able to prevent far-reaching restrictions being imposed upon freedom of trade. But in general the American attacks on the cartels merely had the effect of encouraging the *financial* amalgamation of individual firms (Concerns) or of a whole trade (Trusts). And any policy of *cartel*-regulation only must take account of this effect.

In addition, people are realizing more and more that cartels are an inevitable result of our whole economic development, that they have become quite indispensable and that to suppress them, even if this were possible, would mean sacrificing the economic progress which we have seen they promote. Thus our only concern must be to eliminate as far as possible their *undesirable* effects, and these, as we have seen, arise from the *monopolistic* character of these organizations.

The following discussion will deal merely with the State regulation of the *cartels*. The question of a regulation of all large amalgamations, concerns and trusts is a problem of company law involving above all the finance, organization, balance-sheet regulations, publicity, etc., of limited companies. Our task is to make clear the main lines which any State regulation of the cartel system should follow.

It is usual to consider the problem of cartel regulation both from the point of view of private rights and from that of public policy; in the first case we are supposed to be considering only the interests of the individual and their protection, in the second case 'the public interest.' But in reality no sharp distinction can be made. Many lawyers still fail to recognize the fact to which I drew attention nearly thirty years ago, viz. that it makes a tremendous difference whether prices and conditions of trading are freely agreed upon in an *individual* contract between two parties, or whether they are determined on the basis of a cartel (or of a combine). In the latter case perhaps a hundred similar contracts will have been concluded, and thus a judgement passed upon *one* such contract decides the legality of *all* the contracts concluded by *all* the cartel members with their customers on the basis of the resolutions taken by the cartel, and has in consequence extremely far-reaching results. It has been said that for cartels to exact excessive prices from the consumers is an *offence against public morality (contra bonos mores)*, and that a judge could declare such contracts null and void on that account, or that this could be made the ground of a criminal prosecution for usury. This view overlooks the fact that it is impossible for a judge to form any opinion as to the justification of cartel-prices. Evidently prices can only be judged in connexion with the economic situation as a whole, and this requires an intimate knowledge of and familiarity with economic life. Even an expert belonging to the industry concerned will often be quite unable to judge whether the prices are too high, still less whether there is any question of usurious exploitation. The lawyer always underestimates the difficulty of deciding what is a 'just price.'

It is quite true that we had, during and after the War, in our price-control authorities, our anti-profiteering orders, our excess price courts, etc., a large number of institutions and arrangements by which either the ordinary, or else special courts, passed judgement upon the admissibility of particular prices, and interfered very considerably in the formation of prices. But in the inflation period the differences of price at issue were always extremely large, for instance, a commodity would cost twice as much in one shop as in another — this was at times quite an everyday phenomenon. In normal times, however, it would be necessary to pass judgement upon quite small differences of price, and in such a case it would be extremely

difficult to come to any reasoned judgement as to whether a price was justifiable or not.

The prices fixed by the cartels are based on fundamental economic conditions ruling in a whole branch of industry, so that it is quite impossible for a judge to have really expert knowledge as to this basis, i.e., as to the grounds for the fixing of just these prices by the cartels. The assertion of the Reich Supreme Court of Justice (in its judgement of 12th July 1923) that ‘the courts are in a position, without hearing expert evidence, to decide on the basis of their own knowledge whether the condition of the market is normal or not’ is altogether erroneous, as is also the view of Nipperdey:³⁵ ‘I see no reason why the cartels, when they exact excessive prices from the individual consumer, should be treated any differently from the small money-lender, trade or other creditor. Here the Usury Laws should be sufficient!’ This statement is hardly worth even criticizing; cartel prices do *not* simply affect one individual consumer.

In any case, there can be no question whatever of applying generally against the Cartels §§138 or 134, and 826 of the Civil Code, according to which business transactions which either are in conflict with public morality, or which aim at the usurious exploitation of one of the parties, are null and void. Were all cartels to be declared null and void this would lead to an intolerable state of things in the business world, and a condition of extreme legal uncertainty. It would certainly not render the cartels impossible, as is shown by the experience of other countries in which all cartel contracts are legally null and void. The fact, however, that breaches of the contracts were not actionable would result in a degradation of business morality. It would benefit the business man who is least scrupulous over these obligations, and does not consider himself morally bound by them, since they are not a ground of legal action, while injuring the man whose moral views are stricter, and who keeps scrupulously to the contracts he has signed.

On the other hand, the application of these paragraphs to the individual case may have the most far-reaching consequences, and normally, at any rate in the more important industries, most certainly affects ‘the public interest.’ Any judgement, therefore, as to cartel decisions, since it may perhaps nullify hundreds or thousands of business contracts, requires to be based upon a particularly careful investigation

of conditions in the given branch of trade. A judgement of this kind may be pronounced even by the ordinary courts after the hearing of expert evidence, but yet it may be questioned whether some sort of special organization would not be better adapted for this purpose. This question must be answered in the affirmative, particularly if it is proposed not merely to allow the plaintiff in an individual case damages in accordance with §826, but also to declare the cartel's whole price scale, even possibly the whole organization of the cartel, null and void. Here the high degree of responsibility involved of itself requires that special panels of experts should be constituted for this purpose.

Thus it is not so important to decide whether the effects of a cartel are private or public, as to define its aims and the means it employs. Here its most important aim is to interfere directly or indirectly in the *formation of prices*, and the means adopted which is most important from a juristic point of view is the '*exclusive contract*,' binding the individual customer or dealer to the cartel, or excluding these individuals or outsiders either from supplying to or from buying from some particular quarter. Now these measures may often have a general significance which goes beyond the particular relation between the individuals concerned, and they may therefore be a subject of political regulation equally with the price-fixing agreements of the cartels. Still, they are contracts which are in no way peculiar to cartels, but, on the contrary, are employed far beyond their sphere of influence as a normal weapon of economic warfare. For this reason we shall give them a place to themselves in Chapter IV, and deal for the present with the legal regulation of that activity of the cartels which constitutes their primary purpose, i.e., with their interference in the formation of prices.

It has now become generally recognized that if it be desired not merely to interfere with some one particular action of a cartel, but with the cartel itself — even perhaps to bring about its dissolution — some special procedure will be necessary. This recognition has gained ground since the time Germany decided to take more vigorous steps to counteract the monopolistic associations. On 2nd November 1923 the German Cartel Law was published under the title of '*Ordinance against the Misuse of Economic Power*.' It provides for a special Cartel Court attached to the Reich Economic Court (Reichswirtschaftsgericht) to which not merely the

contracting parties, but also the Governments can appeal. Its main provisions are the following: [For the actual text, see Appendix.]

§1. 'Contracts and resolutions which involve *undertakings* in respect of production or marketing policy, or which prescribe conditions of trading, or methods of price-fixing or the prices to be demanded (syndicates, cartels, conventions and the like agreements) must be *in writing*.' In the case of such agreements a mere promise (the 'word of honour') is null and void; as is also any agreement to exclude appeal to the Cartel Court (§§2, 3).

Thus the scope of the law is not restricted to cartels; it is not necessary that the contracts or agreements should have any monopolistic effects by way of controlling or dominating the market. The law does not apply to concerns, interest-groups — except in so far as these are really profit-distributing cartels — trusts or amalgamations; it does apply to 'contracts . . . prescribing conditions of trading,' but not to the so-called 'standards-agreements.' *Buying Associations*, according to a memorandum of the President of the Cartel Court (Lehnich-Fisher, p. 97), come under the law in so far as they may bind their members to particular conditions or prices in their dealings with the sellers who supply them. In general, however, it may be said that the text of §1 does not apply to buying associations (consumers' co-operatives and the like). Combinations of employers or employed do not come under §1 — not because, as Hausmann-Holländer thinks, they 'do not aim at influencing the market'; this is precisely what they frequently aim at influencing, viz., the labour market. But 'methods of price-fixing or prices to be demanded' are evidently not intended to refer to wage-demands. The line of distinction, however, between these combinations and combinations of individuals who sell their personal services is left vague.

The Ordinance certainly does not cover the *Trade Associations*, in so far as these aim solely at influencing the legislature or the administration of the law, or at a general regulation of the trade. Again, associations which merely *recommend* their members to maintain certain prices or conditions of trading, while not legally binding them to do so (e.g., the so-called 'Gentlemen's Agreements') should not be regarded as cartels — though I personally do not hold that this treatment is justifiable in the case of many of the informal associations. For instance, where an association

of banks 'recommends' its members to charge a certain commission on the cashing of dividend coupons, this injures those depositors who submit to it, and it is not enforced against others.

The principal paragraph of the law is §4: 'If a contract or resolution of the kind specified in §1, or a particular method of applying such a contract or resolution *endangers the national economic system or the public interest*, then the Reich Minister of Economic Affairs (1) may apply to the Cartel Court for a declaration that the agreement is null and void or for an injunction restraining the parties from applying it in a particular way (§7); or (2) may order that any party to the contract or resolution shall be free at any time without notice to denounce the contract or withdraw from the agreement; or (3) may order that a copy of all agreements and instructions which have been adopted for the purpose of giving effect to the contract or resolution shall be forwarded to him, and that such agreements or instructions shall not take effect until this has been done. It will be held that the public interest is endangered especially to an extent that is economically unjustifiable where production or marketing is restricted, or where prices are raised or prevented from falling, or, in case of prices based on an index number, where a 'risk-premium' has been added to the price, or where there is inequitable interference with freedom of exchange through buyers' or sellers' boycotts or through the fixing of differential prices or conditions of trading.'

This provision has only once, in the case of the Berlin Asphalt Factories, led to the dissolution of a cartel by the Ministry of Economic Affairs; but the Government has frequently threatened proceedings under §4, and the cartels have thereupon given in to the requirements of the Cartel Court. The law has thus fulfilled its purpose, since, in the words of the official preamble, 'it is not its purpose to crush the cartel system; any such policy would by no means further freedom of exchange in the long run, but would on the contrary, particularly during the coming period of reconstruction, deliver up a large number of sound small and medium-sized firms to be crushed by the overwhelming resources of the big concerns.'

For the application of §4 it is not sufficient that *individual interests* should be endangered; §8 is designed to protect these. The second clause of §4 gives five examples of cases where danger to the national economy or to the public interest

may ensue. The Cartel Court has to decide when a boycott or an agreement for exclusive trading results in injury not merely to individuals but to the national economy or to the public interest. There is a certain justification for the objection which has been made to this paragraph that the damage done to individuals by boycotts and the like may also be taken into consideration as a criterion of injury to the national economy or the public interest, thus *indirectly*, it is alleged, proclaiming free competition as the principle which the Cartel Court is to protect. It is said that under cover of the public interest the Ministry is brought into the field to protect private interests, and that issues of private law are thus unjustifiably treated as if they were issues of public law. In my own opinion this confusion of the two kinds of law is less objectionable when one considers how vague and indefinite are the conceptions of 'national economy,' 'public interest,' and 'injury' to the public interest, and yet the jurists still have to work with such conceptions to a very great extent.

In practice, the most important paragraph of the law has hitherto been §8: 'Contracts or resolutions of the nature specified in §1 may be *terminated without notice* by any of the parties to them for urgent cause. *Inequitable restriction*, particularly in respect of production, sales, or price-fixing, will always be regarded as an urgent cause.'

The denunciation of agreements for urgent cause corresponds to §327, cl. 1 of the Civil Code, which provides that partnerships or associations at civil law may at any time be denounced for urgent cause. It is a necessary safeguard against excessive restrictions being imposed on any one. The denunciation of a contract in accordance with §8 and the appeal to the Cartel Court for a decision of the point is in fact a civil action for which a *special court* has been provided. §8 contains a special provision for the denunciation in *exceptional* circumstances of contracts or agreements specified in §1; denunciation of the contract in the ordinary way is regulated by the ordinary provisions of the civil law. Urgent cause may be proved irrespective of any action for tort on the part of the cartel or the other members of the cartel, nor in a case of denunciation in accordance with §8 can there, as a rule, be any consideration of the public interest involved. In particular, it is no business of the Cartel Court to uphold a cartel in the public interest and so to impose restrictions on the right of

denunciation in accordance with the ordinary civil law. In deciding the question whether there is a case of inequitable restriction of one of the parties, justifying this party in denouncing the contract without notice given in advance, the Court has to take account of the interest of the other parties, but *not* of a possible public interest in the continuance of the cartel.

Mere changes in trade, while they often threaten the existence of a cartel by causing too wide a divergence of interest as between the different members, do not justify the denunciation without notice provided for in §8; it is only inequitable damage done to one party under these conditions which can be a ground of denunciation. The Cartel Court has been more inclined to admit as ground of termination any considerable alteration of the balance of forces within a cartel consequent upon the formation of *concerns* in the industry, where it was impossible for the party terminating to have foreseen that this would occur. This may be of importance where a special majority (of two-thirds, three-fourths, etc.) is necessary for the taking of important resolutions, and where a newly organized concern is of itself in a position to stop this majority being realized. There must of course be a real danger of damage supervening to one of the parties; this might be the case, for instance, where the cartel's sphere of influence is to be extended contrary to the intention with which some of the members came into it — e.g., if there is to be common price-fixing in addition to a previous conditions-agreement, or if a price-cartel is to be developed into a sales syndicate; but it would not be the case if one of the original aims of the cartel proved temporarily incapable of realization. If however the springing up of outside competition appeared to have rendered the attainment of the cartel's purpose quite impossible, the individual would be no longer bound by the cartel-agreement. But a mere increase in the number of outsiders, which is a frequent result of cartel-agreements, would not give a cartel member any right to terminate the agreement without notice. He may acquire such a right if the cartel has failed to adapt itself to a change in the economic situation where such failure has made the attainment of the purposes of the cartel impossible. The same is the case if it has been guilty of an arbitrary exploitation of its economic power in imposing excessive restrictions upon the freedom of its members. Differential treatment of some members as against others, e.g., in consequence of their not belonging to an

Employers' Association, may likewise be a ground of termination.

Thus the Cartel Court has not established any body of case law by which it will decide what cases of changed trade justify termination without notice. It cannot do so because the infinitely differing conditions only allow each case to be judged on its merits. The Cartel Court tries as far as possible to be fair to all the different interests. On the one hand, it demands, in times of depression, 'measures which make it possible for members who are economically weaker than the rest, or who work under unfavourable conditions of production or of marketing, to carry on their business, though not to full capacity.' On the other hand, it declares that members cannot be held to minimum prices if this 'excludes them altogether from successful competition in an important market.' Generally speaking, the Cartel Court naturally supports price-reductions in preference to the maintenance of high prices, and is willing under certain circumstances to regard this latter policy as an urgent cause for termination, in times of depression.

If remaining in the cartel involves a serious danger to the economic existence of a member, this is invariably treated as an inequitable restraint upon the member's freedom of action, and thus as ground of termination. But the closing down of a *single* works, where the undertaking has more than one works, would not normally be regarded as endangering its existence.

The denunciation of a cartel-agreement in accordance with §8 does not have the effect of making the agreement invalid, but merely means that the particular member who denounces it is no longer bound by it. 'Exceptional' denunciation in accordance with §8 only frees the member from being bound by the cartel contract, and not from any financial obligations which he may have entered into, e.g., such as arise out of a private company (G.m.b.H.) formed by the cartel. The denouncing firm may however demand that its share in the company shall be bought out. Since the articles of association in the company cannot be denounced, there arise various disadvantages to the members of cartels concluded under this legal form, or rather, we see the inconveniences arising from the fact that German law puts *contractual combinations* and *partnerships* or *companies* (Gesellschaften) upon the same footing, treating the contractual obligations of the members merely as 'subsidiary services' rendered to the company.

With regard to §9 of the law, I refer the reader to Chapter XXIV below.

§10 is an important one. 'If the conditions of trading or the methods of price-fixing practised by firms or amalgamations of firms (trusts, cartels, conventions, groups of interests, syndicates and similar combinations) are of a nature to endanger the national economy or the public interest, through the exploitation of economic power, the Cartel Court is empowered, on the proposal of the Reich Minister of Economic Affairs, to make a *general* order authorizing all parties to all contracts concluded under the obnoxious conditions to terminate their contracts without notice.' This is the sole paragraph of the law which deals with individual firms, concerns, trusts, and the like organizations. These are only subject to the jurisdiction of the Cartel Court in respect of this right of denunciation, and the enjoyment of such a right by the individual is made conditional on the national economy or the public interest being endangered. This is the more remarkable since §4 of the Cartel Ordinance does not apply to these organizations. Thus a concern, trust, or similar organization cannot be dissolved in accordance with §4, nor can §§8, 9 be employed against it. A contract for exclusive trading entered into by a concern or a trust, although it may be considered to be injurious to the public interest, cannot be denounced without notice in accordance with §8, nor does a boycott enforced by it require the consent of the Cartel Court according to the terms of §9; in these cases we are left with the general provisions of the ordinary law. Considering that concerns and trusts are very much on the increase, this legal discrimination against the *cartels* alone is not very satisfactory.

In general, we may say that the objects of the Cartel Law, with the possible exception of those provided for in §8, might have been secured by process of the ordinary law. A special law and a special court for this purpose was only needed if it was intended to insure a much stricter application of the provisions of the ordinary law, which evidently cannot always be secured by the ordinary process of judicial decision. The law does not lay down any legal principles that are essentially new, but merely provides a new legal basis for a more intensive repression of the abuses resulting from monopolistic combines. Its significance therefore depends on the view which the Cartel Court takes of the duties assigned to it. It must be conceded that the Court has hitherto acquitted itself with credit in its difficult task, 'and has not been

tempted to interfere excessively in the economic life of the country.

The Cartel Law however has often been felt to be insufficient for its purpose. A Social-Democratic resolution demanding the establishment of a Cartel Register, a Cartel Office and an annual inquiry into the number and effects of the cartels was adopted by the Reichstag in 1926. In connexion with its efforts to secure a lowering of prices the Government announced in August of 1925 that the Cartel Law would be more strictly applied, particularly with a view to suppressing certain conditions of trading which originated in the inflation period and tended to raise prices, e.g., the exchange-value clauses, reparations clauses, agreements for sliding-scale or indeterminate prices, rebates for exclusive trading, exclusive contracts, etc. Further, in the foodstuffs trades, contracts could be denounced in accordance with §1 even without any urgent cause, if they contained any obligation to fix the price of foodstuffs. The Ministry of Economic Affairs took proceedings against a number of combines, especially in the textile industry, on the ground of exchange-value clauses, sliding prices, etc., maintained by them; and in a number of cases it succeeded even without actual appeal to the Cartel Court in enforcing price-reductions or the abolition of exclusive trading, and even in one case the dissolution of a cartel.

A draft law brought in by the Government for extending §19 of the Cartel Ordinance to cover the statutory coal and potash syndicates was subsequently withdrawn again, and a stricter formulation of certain clauses (§§111 and 91 respectively) of the Coal Trade and Potash Trade Laws was proposed instead, with a view to enabling the Reich Minister of Economic Affairs to control more effectively the conditions of trading fixed by these statutory syndicates.

Chapter XXI: Legal Regulation in Other Countries.

Unlike Germany, most other states have long had special statutes directed against monopolistic associations.³⁶ These were, generally speaking, brought into existence a long time ago to deal with quite other conditions, and are only to a very limited extent enforceable against the modern cartel. Up to 1926 France based her practice upon Art. 419 of the Penal Code, which penalized any agreement between several persons to influence the price of any commodity to the disadvantage of the public. This article was interpreted by the judges in such a restricted sense that it was hardly ever applied in practice. Still, in connexion with Arts. 6, 1131, and 1133 of the Civil Code, it led several times to cartel-agreements being declared null and void. Art. 412 of the Penal Code is particularly directed against tendering-cartels. In 1901 a law was passed against associations of *foreigners* having the object 'soit à fausser les conditions normales du marché des valeurs ou des marchandises, soit à menacer la sûreté intérieure ou extérieure de l'état,' etc. This law has never been put into practice.

By the law of 3rd December 1926, Art. 419 was given a new formulation. The making of 'excessive profits' has now become punishable. It seems however that the courts in administering the law are taking the same line as before, and that it is merely desired to give them a ground upon which they can convict in particular cases, if they wish. Proposals to give the cartels a special legal status of their own have hitherto come to nothing.

In Belgium, Arts. 412 and 419 of the French Penal Code have been repealed; cartels are subject merely to the general principles of the civil and criminal law, and

these the courts interpret favourably to them. Art. 1131 of the Civil Code and Art. 311 of the Penal Law merely penalize persons who influence prices by fraudulent means.

Switzerland has contented itself with Art. 20 of the Swiss Law of Obligations, which, like the German §§131 and 138 of the Civil Law Book, declares contracts to be null and void which are contrary to law or to public morality — i.e., it is left to the ordinary courts to decide when this is the case with the price-agreements or other contracts imposed by the cartels.

The same, generally speaking, holds good of Italy. In Italy, Spain and Roumania it is interesting to note that one industry in each of these countries has been compulsorily organized in a statutory cartel by the Government. Russia too, though possessing regulations penalizing cartels which were frequently applied in practice, nevertheless formed in 1895 a statutory cartel for the sugar industry; and yet forbade all cartels dealing with foodstuffs or other necessities of life by §§913 and 1880 of its Penal Code. Thus the Potash Law of 1910 and the other German statutory syndicates which were formed during the War had had several forerunners in other countries.

The provisions of the Austrian so-called Law of Combines of 1870, §4, resemble those of French law, except that they have sometimes been more strictly applied and have led to cartel-agreements being declared null and void: 'Agreements between persons engaged in trade with the object of raising the price of a commodity to the disadvantage of the public are not legally binding' (Supplement to §879 of the General Civil Law Book, according to which a contract which offends either against a statutory prohibition or against public morality is null and void). The mere intention to offend, if presumed by the Court to exist, is enough to annul the agreements, but the courts have made exceptions to this, without however coming to any well-defined distinction between legal and illegal agreements. If a case comes into Court, it is to be expected that the Court will declare both cartels and exclusive trading agreements null and void, on the basis of §879 of the General Civil Law Book. Thus the results are much the same as in Germany, with its denunciation without notice provided for in §8 of the Cartel Ordinance. Particular measures of compulsion by cartels are prohibited by Art. XXIV of the Introductory Law to the

Code of Civil Procedure and Art. XXX of the Introductory Law to the Code of Execution Procedure.

After the War, Denmark, Holland and Sweden set up commissions to investigate the question of control of the cartels. But they did not result in any law being passed except in the case of Sweden in 1925, where the Government is empowered to appoint experts to control the trading of monopolistic firms or associations. This measure was employed in the following year against the Swedish Millers' Trust.

Japan has no particular regulations against cartels, these being unimportant in that country in comparison with the great capitalistic concerns. A law of 1917 forbids the cornering of certain commodities with a view to realizing abnormal profits.

English Law, deriving from the medieval prohibition of monopolies, is more unfavourable to monopolistic associations than any other legal system. This is the only system which expressly gives legal defence to the principle of freedom of trade. Thus it forbids 'contracts in restraint of trade.' It is true that §1 of the German Trade Regulations likewise lays down the principle of freedom of trade, but it does not say that this freedom shall not be restricted by private agreements between individuals. But in England the provisions of the Common Law protecting freedom of trade were generally interpreted by the various judges far more strictly, and here too judicial precedents played a much larger part than elsewhere in preventing the development of monopolistic associations based upon contract. The development went more in the direction of complete fusion (amalgamations, combines), but here too contractual agreements were never completely suppressed. Rather the fact that the Common Law is a customary law has resulted in the cartels being judged far more than in Germany according to the circumstances of the particular case, i.e., the judge has decided the case mainly with regard to the economic effects of the contract, just as our Supreme Court has done with exclusive trading agreements. The view which has now come to be adopted generally is that agreements (combinations) of any kind are valid, provided they do not involve the commission of immoral, illegal or oppressive acts. Thus in England exclusive trading contracts have been declared valid which in Germany would have been prohibited by the Supreme Court or by the Cartel Court on grounds either of offence against public morality, or of excessive restriction of personal liberty, or of danger to the public interest. In the main, however, it is true

that in England the principle of maintaining free competition as far as possible holds the field to a greater extent than in Germany, although it is realized that this principle has its defects as well as its merits. In any case monopolistic combinations in England have not been able to develop with the same freedom that they have enjoyed in Germany.

In 1920 England passed an Act giving the Board of Trade wide powers to investigate prices, costs and profits in all industries, and where necessary to fix maximum prices. A permanent committee to watch the activities of the Trusts was also appointed.

In America too the same principles were applied as in England; the qualification however was soon admitted that it was only unreasonable' restraint of trade that was prohibited, and this naturally gave very wide scope to the tastes of individual judges.

Turning to the English Dominions and Crown Colonies we find that Canada alone has a regular Cartel Law. Here a law for the investigation of cartels, monopolies, trusts and amalgamations, the Combines Investigation Act, was passed as early as 1910, repealed in 1919, but then reintroduced in similar form in 1923. Any six British subjects resident in Canada have a right to propose the investigation of any organizations which act to the disadvantage of the public, whether consumers or producers or others. They must produce proofs, and the facts are then investigated by a Registrar or commissioner appointed by the Governor. If 'on the basis of this procedure the Governor comes to the conclusion that the combination exists for the purpose of increasing excessively the *profits* of manufacturers or merchants at the expense of the public,'³⁷ he may order that the article in question be admitted duty free or that the tariff be so lowered as to give rise to a reasonable degree of competition for the benefit of the public. There is an interesting provision that patents can also be withdrawn if it is found that they are being exploited excessively to the disadvantage of the public.

Laws recently drafted in Norway and in the Argentine Republic go further than any others in repressing combination. The Argentine draft law simply declares all monopolistic associations and all contracts for exclusive trading to be illegal. It does not appear that the draft was ever passed into law. In Norway a lengthy law was drafted in 1923, amended in 1925, and passed with some further emendations in

1926.³⁸ The title of the law is 'An Act for controlling Restraint of Competition and Price Abuses' and consists of eleven chapters and thirty-one paragraphs. Of special interest are the two controlling authorities which it sets up, the Control Office and the Control Board, of which we shall speak below; also the provisions dealing with exclusive contracts and price-differentiation. The following general provisions of the law may also be mentioned: §1. The law is directed against price-abuses and towards control or restraint of competition, and applies to all private and municipal trading activities (this latter an addition inserted in 1925) except work done in the service of other persons. By §6 all combinations aiming merely at regulating wage-conditions are expressly exempted from the necessity of being registered. Otherwise it is required that all such combinations or agreements or regulations between traders must be registered as may effect a regulation of price, production or marketing conditions which could be considered important in view of the state of the particular market. Individual traders whose activities could have a considerable influence upon the price of particular commodities on the Norwegian market or on a large part thereof are likewise under obligation to register, and so are the owners or managers of firms which are a subordinate organization of any foreign firm or which are in a combine with any foreign firm (§6). Limited companies, except such as belong to banks or insurance companies, taking any part in such combinations are obliged to send in their annual balance sheet, showing profit and loss account, to the Control Office, if they have a share capital of 10,000 crowns or more, or if the Control Office demands it (§8).

Trading firms are forbidden to accept or ask prices or benefits of any kind which could be regarded as excessive. The Control Board on the proposal of the Control Council may issue regulating orders. Agreements to participate in combinations or contracts which are subject to registration cannot, except by express permission of the Control Board, be entered into for a period of less than one year or be terminated by notice of less than three months (§16). Regis-trable agreements and regulations that are not registered within the time prescribed are invalid until they are registered (§17). Combinations of traders may not impose on their members any punishments for the breach of agreements to regulate competition if such agreements are inequitable or if it would be contrary to public policy to enforce them. The Control

Board decides whether this is the case (§19).

The Control Board may, on the proposal of the Control Council, order the dissolution of combinations in restraint of competition, where it is of the opinion that they will have injurious effects upon internal price, production or marketing conditions, or that they are contrary to public policy. Appeal against such a decision can be made to an Appeal Commission (§20).

Breaches of the law are punished with fines up to 100,000 crowns, or with imprisonment up to three months, or with both. The offender may be deprived of the right to carry on his trade either for ever or for a period not exceeding five years (§§27, 28).

Chapter XXII: Measures Of Control.

As has already been said, in forming a judgement as to the effects of monopolistic associations we attribute a very large and important office to *public opinion*. But if this is to fulfil its function, it is indispensable that the State and the general public should be *informed* as to the cartels and trusts. The State cannot leave these important organizations with their far-reaching influence entirely to their own devices. Now the greater the extent to which the cartels interfere in economic conditions for the advantage of their members, the more they themselves are concerned to remain in the background and not allow their operations to become public. In the public interest the State must prevent this. It ought therefore to make *registration* compulsory for all monopolistic associations, including those of the workers, which, as has been said, do not in any way differ from those of the employers in the effects which they may have upon economic life.

In spite of many demands for a cartel register, such compulsory registration has not been introduced in Germany, even though every social or sports club is obliged to register. Compulsory registration of all economic associations with obligation to send in a copy of their statutes would certainly be very desirable, though of course it is well known that cartels in their statutes do not betray much of the real objects for which they were founded.

Thus it will be necessary for the State, in order to form an opinion as to the effects of a monopolistic combination, to demand in some cases that it shall be informed as to the various resolutions adopted, restrictions laid on production, or export premiums, etc., paid by the cartel. But to extend compulsory registration to all acts

of the cartel would go far beyond the limits of what is possible for a registry office to accomplish. The compulsory registration and possible emendation of their statutes should only be enforced by means of disciplinary measures, not by depriving the associations or agreements of their legal validity, since such a step would inevitably produce a state of great legal uncertainty. It would also be desirable to make the obligations to register as far as possible similar to those in force for other associations, e.g., clubs, companies, co-operative societies, so as to make it clear that this is not a case of special legislation against cartels or trades unions, but merely the fulfilment of a duty incurred by all associations which are formed within the bounds of the State.

Compulsory registration is not, of course, a measure which is in itself capable of preventing damage being done by the cartels, but is intended merely to give the State a chance of supervising these agreements. Such a measure is the more necessary since the cartels frequently make great efforts to keep their activities secret as far as possible. This secrecy has done them a great deal of harm in the eyes of the public, and I am in a position, as the result of long years spent in observing the cartels, to state definitely that the cartels have far less to hide than the general public, rendered suspicious by their misplaced policy of secrecy, imagines. The cartels seldom have any real manufacturing or trading secrets to conceal, since the individual firm, if he is in possession of any such secrets, is by no means inclined to communicate them to his fellow-members in the combine, who still remain his competitors. I believe that a large part of the mistrust with which the cartels are still generally regarded would disappear if they no longer shrouded themselves in thick veils of secrecy. For this reason publicity is to be desired even in the interests of industry itself.

The desire which had been very frequently expressed, and which had more than once been voiced in the Reichstag, that the public should be better informed on the effects of the cartels than had hitherto been the case, led to the Imperial Government in 1903 instituting the 'Public Inquiry into German Cartels' (*Kontradiktorische Verhandlungen über deutsche Kartelle*). There were called in evidence experts from particular industries, consumers, dealers and some few representatives of economic and legal science. The discussions dealt with the Rhenish-Westphalian Coal Syndicate, the Coke Syndicate, the Upper Silesian Coal Convention, the Pig-iron

Syndicates, the Iron Semi-manufactures Association, the Rolled Wire and Wire Nail Syndicates, the Newsprint Cartel, the questions at issue between the German Booksellers' Exchange and the Universities' Protection Society, the Tinplate Syndicate, the Steel Works Associations, the Wallpaper Cartel and the Spirits Syndicate. They are published in five volumes (or twelve numbers) by the firm of F. Siemenroth, Berlin.

In Austria too, in the year 1912, there was a cartel inquiry, which took the form of a collection of material and a public cross-examination of witnesses. It brought out some interesting facts with regard to the iron cartel and the sugar cartel.

In connexion with the Cartel Inquiry, the Imperial Government in 1906–08 laid before the Reichstag a voluminous Memorandum on Cartels, which appeared in four parts. Of these the first comprised comprehensive statistics with regard to German cartels and a collection of cartel statutes, or articles of agreement; the second contained an account of such provisions of the German Civil and Criminal Law as might apply to cartels, having regard also to the constructions put on these provisions by the Imperial Supreme Court; the third gave a detailed description of the combines in the German coalmining trade, with special reference to their effects on price-formation; and the fourth and last gave a conspectus of foreign legislation on the subject of cartels and trusts.

In 1920 the Federation of German Industries opened a special Cartel Office, to which is entrusted the permanent task of watching the cartels. This is an organization for furthering the interests of the associations and is intended to keep the Government, the Parliaments and the public informed as to their effects; it is also intended to encourage arbitration on disputed points, and to prevent abuses arising in connexion with them.

In July 1922 an Advisory Council to the Reich Ministry of Economic Affairs was formed, comprising members of the Reichstag, of the Federal Council and of the Reich Economic Council.

On 14th March 1923 the Reichstag passed by a large majority a resolution urging the Reich Government to submit to it as soon as possible a draft of a Cartel Law, in order to repress abuses resulting from the policy of the cartels. It was to include

- (1) the establishment of a Cartel Register;

- (2) provision for advisory representation of the consumers in every cartel;
- (3) powers to be given to the Government to veto resolutions of the cartel on the proposal of the consumers' representative.

As has already been made clear, the Government, in issuing its Cartel Ordinance, only gave in to these demands to a very limited extent, and neither established a Cartel Register nor interfered in the internal organization of the cartels by providing for representation of the consumers. Only in §4, clause 3, do we find any mention of an obligation to furnish copies of written agreements. It is impossible to see any adequate motive for this refusal. Now that a Cartel Court and a Cartel Office have been instituted, the establishment of a Cartel Register would seem eminently desirable and would not involve any serious burden to the finances of the Reich. The Ministry of Cartels or of Industry which I used formerly to advocate would be an extravagance for Germany under present-day conditions.

However, in countries which can afford it an authority of this kind is of the greatest value. Most beneficial of all is probably the institution of a 'Ministry of Industry' on the lines of the American Trade Commission, which would have to deal with other questions affecting industry as well as with the cartels, and to supervise industrial development generally. It would demand to be informed not merely of the terms of the cartel agreements themselves but of all prices fixed by associations and all changes in these prices, and of the methods of calculation on which they were based. In this connexion it might be possible to require the cartels to submit annual reports, as the Chambers of Commerce do; such reports would be extremely valuable from the point of view of the national economy. The Ministry of Cartels or of Industry would investigate these reports, which would contain above all statistics of production, prices and costs, would collate them, and where necessary would require additional information. Organized cartels with a selling syndicate could be required to send in half-yearly or even more frequent reports showing orders and deliveries, the latter separated into home and foreign deliveries. Important material would thus be gained upon which to base judgements as to the general economic situation, and the organization of a whole trade as a unit, which is taken in hand by the cartels, could be made use of to benefit the community. The obligation for the cartels to furnish reports could be enacted immediately.

A law of 15th April 1926 set up the 'Commission for the Investigation of Production and Marketing Conditions in German Industry and Trade.' This was to deal primarily with market conditions, but also with developments in the organization of the German economic system, such as the cartels, concerns, etc. It formed a special group for the investigation of cartels and has hitherto published investigations on the Engineering Cartels and on the cartels in the building and building-material industries. Volumes of material upon the cartels in the textile industry, in the paper industry and in the book trade, and also a special inquiry into international cartels, are to be published shortly. Investigations into the practices of big concerns and the changes in the juristic forms adopted by individual firms and by concerns have also been published. With a view to deciding the question whether a cartel register should be started, the Commission also attempted to ascertain the exact number of the cartels existing in the textile industry. The results of these inquiries have not yet been published.

It is extremely important that some impartial authority should be in possession of a general survey of all the conditions of production and of marketing in the more important branches of trade. Thus statistics of production must be made as complete as possible; this is an essential preliminary to any State regulation. It must, however, once more be emphasized that it is not enough for the State to be informed of the effects of monopolistic combination; it must also follow up the *financial* constitution of big concerns to a far greater extent than hitherto, if only for the reason that in the future it cannot possibly leave the formation of capital exclusively to the inclinations of the individual capitalist.

Thus very many countries have in recent years introduced either a Cartel Register or special commissions or offices for the purpose of supervising the cartels and trusts. In Holland, for instance, a decree of 11th March 1920 established a State commission to determine 'what legislative measures are desirable with a view to rendering the production and distribution of goods more conducive to the general welfare than hitherto?' A year later it appointed a sub-committee of its own members to act as a Trust Commission, but this latter has not yet published any official report. Sweden too has established a Trust Commission with the special function of investigating conditions in the rubber industry.

I shall deal in Part VI with the many-sided activities of the American Federal Trade Commission; both this commission and the English Commission on Trusts have published quite a series of interesting reports on various industries.

Among the more recent attempts to regulate cartels and trusts that of the Norwegian Government is, as has been said, particularly striking. In Norway the obligation to register has been in force since the year 1920 for all cartels, trusts, and monopolistic undertakings, and since that date 418 cartels, fifty-one other agreements and fifty-eight monopolistic large-scale businesses have been registered. The new law of 1926 provides, as has been said, for two separate controlling authorities, the Control Office and the Control Board. The Control Office is under a Director, who must be qualified for the highest judicial office. The Control Board consists of a President and four members, or their personal representatives, all nominated by the King for four years. No member of either of these authorities may have any financial interest in any trading organization. The Director of the Control Office takes part in meetings of the Control Board, but has no vote.

The duty of the Control Office is to enter combines and firms in the register as prescribed in the law. The register, contrary to the provisions of the earlier draft, is not accessible to the public; but the Control Office may with the consent of the Control Board inform outsiders of entries on the register or publish a summary of the entries if it has ground for supposing that such information might influence internal market conditions.

All parties are under obligation to give the Control authorities any information they may desire in respect of prices, turnover or other conditions of business; they may also demand to see books, papers or minutes of meetings and if necessary order them to be requisitioned by the police.

The issuing of regulating orders is thus reserved to the Control Board. The relation between the Control Office and the Control Board is therefore much the same as that obtaining between a Cartel Register and a Cartel Court, except that the Cartel Register is in this case a public authority with powers of investigation of its own.

Chapter Eight, entitled 'Municipal Control Committees,' is also interesting : A municipal council can with the consent of the King establish a Municipal Control Committee, in which both traders and consumers are to be represented. The Control

Office can authorize a Control Committee to require information.

I do not doubt that in spite of all registration provisions a considerable number of monopolistic associations, Especially such as are local in character and have but few members, manage to slip through the net of these control regulations. Time will show whether these extremely far-reaching provisions of Norwegian law will be rigorously applied in practice. As with the American end-trust laws, a good deal of them will probably not get beyond the paper they are written on.

Such a far-reaching — in fact, an almost universal — supervision of industry is however only possible in a fairly small country; in Germany it would be quite impracticable. It must here be emphasized that these drastic Norwegian regulations do nothing to repress the *financial abuses* of which the big firms are guilty; this could only be accomplished by a tightening up of company law.

Even though the final consumer has hitherto been less injured by the cartels than might have been expected, having regard to the large part these monopolistic organizations play in modern economic life, still the supervision of price-fixing in monopolized branches of trade and the prevention of the abuse of monopoly position are among the most important tasks of the State. It is not enough to employ expert assistance merely to bring such abuses to light; it is necessary, as far as possible, to prevent their occurring. This is naturally only possible through the cooperation of those affected. This was the purpose of the Reichstag resolution mentioned above, in demanding the advisory representation of consumers in every cartel; but this measure was not adopted in the Cartel Law. It must in principle be conceded that this demand is quite justified; it is only somewhat difficult to draw up general provisions for such consumers' representation. It would seem necessary among other things that they should represent *associations* of consumers, and this may lead to their organization. It is undesirable to send into the cartels representatives of the public or of public bodies; it is better for the cartels to remain private organizations.

On the other hand, I see no objection to admission of representatives of the workers to the deliberations of the cartel. They can scarcely do any harm, and, just as with the workers' representatives in the supervising committee of joint-stock companies, it is desirable that some few workers at least, by getting firsthand experience of the working of 'capitalist organizations,' should get a better understanding for the

problems of modern economic life — an understanding which the type of ideology constantly hammered into them makes it so difficult for them to acquire. In the case of the cartels especially, the workers would learn to recognize that the employers are here pursuing precisely the same policy as they themselves in their trades unions — in fact, where trades unions have acquired such power that they affect the whole economic system I should consider it quite justifiable for the employers to demand the right to have permanent delegates at the trades union meetings. If the popular phrases of ‘co-operation between capital and labour’ and of their ‘common service to the community’ are not to remain mere phrases, it is links of this kind which are most likely to rid economic life of those features of organized warfare which are its most salient characteristics at present.

In branches of trade where the interests of the consumers appear especially threatened by the monopolistic position of the sellers, the formation of special Price Regulating Commissions, such as I proposed thirty years ago, might be considered. These should be formed of cartellized firms, outsiders if any, finishers, consumers, merchants and workers, with the assistance of other experts and civil servants, in any case where there is considerable complaint against the prices demanded and other measures appear ineffective. It is in my opinion the only way in which excessive exploitation of a monopoly position can be directly countered by price-fixing on the part of the State. In the statutory Syndicate for the Potash Industry and in many of the industrial selling organizations created by the Government during the War this has actually been accomplished, and this practice is becoming more and more widespread, e.g., in the National Coal Council, the National Potash Council and many other organizations. It is becoming more and more recognized that a better basis for the fixing of prices, involving more exact costing methods, is indispensable. To work out these methods will be the main task of the science of management in the future. And a further development of statistics of prices and production is a necessary condition of the State’s intervening effectively in price-fixing. There is not the slightest doubt that this will prove indispensable within the next ten years or so, if the development of monopolistic organizations goes on as hitherto.

Still, State price-fixing should be treated not as the rule but as an emergency measure, and I believe in most cases purely economic measures, or even the public

Robert Liefmann, *Cartels, Concerns and Trusts*, 235

criticism of cartels or interpellations on the subject in Parliament, would be sufficient to prevent excessive exploitation of a monopoly position.

Chapter XXIII: Regulation of Exclusive Trading Contracts.

While we do not favour any general legal regulation of cartels such as would lay down rules for their action or their formation, still there is a group of practices adopted by the cartels which are particularly bound up with questions of law and which are perhaps more susceptible of strictly legal regulation than are the general economic activities of the cartels. I refer to the agreements which I have classed together under the term of 'exclusive trading contracts' or 'exclusive contracts,' viz. the competition clause, the boycott contracts, the cutting off of supplies of material or workers, obligations of exclusive trading and the like. The two names employed above do not mean quite the same thing; 'exclusive contracts' is used to emphasize the exclusion, i.e., the blockade and the boycott, the weapons of economic warfare; 'exclusive trading contracts,' on the other hand, refers to exclusive alliances. But in the case of most of the economic practices to be discussed here both aspects of 'exclusiveness' or 'exclusion' are in intimate connexion. The cartels employ such methods either by binding their own members not to sell to particular customers, not to buy from particular sellers, not to employ particular workers and the like; or else by obliging certain groups of economic persons to sell only to them or to buy only from them. The latter form of contract is evidently directed against outsiders, and aims at strengthening the cartel by obliging either the customers or the sellers of raw materials to deal exclusively with it.

But such contracts have an importance which goes far beyond the sphere of the cartels; they are employed not merely by firms but likewise by most co-operative societies, by unions of workers and of all sorts of economic organizations or

individuals. The whole system of Co-operation and the very right of combination itself, in particular too the collective wage-agreements to which both employers and workers give their adherence and which have proved so valuable in securing social peace — all these rest upon the same basis. Modern economic life cannot dispense with such regulations, since they are one of its most valuable methods of organization and are employed wherever two groups which are normally hostile to each other, for example, employers and workers, or producers and consumers, desire to establish a unitary and permanent regulation of their mutual economic relations. For this reason it is inadmissible simply to declare all such contracts invalid, and legal science is confronted with the task of laying down the limits within which they are allowable, and beyond which the far-reaching interference in the individual's freedom of action which such contracts undoubtedly involve will be regarded as excessive and contrary to public interest.

As regards agreements for exclusive trading, I made twenty-eight years ago at the Berlin Congress of Jurists the proposal which I have repeatedly put forward since, that such contracts should be valid only in connexion with and for the duration of definite price-agreements, i.e., so long as the other party to the contract is bound not to put up his prices. This mitigates the danger arising, e.g., to consumers from an obligation to deal exclusively with a cartel; and it prescribes that there shall always be some compensating advantage which may easily be absent where all-powerful monopolists force their opposite numbers to make a one-sided agreement with them.

Such a compensating advantage, it is true, is frequently conceded by cartels in the form of the so-called '*loyalty rebate*,' but this is often rendered illusory by increases of price; and besides this the cartel ought in its turn loyally to carry out the exclusive agreement, and not to make the same concessions to other purchasers.

To render the boycott of supplies difficult or impossible — the type of boycott employed or threatened by the cartels in order to force the consumers to deal with them exclusively — it has been proposed to introduce the so-called '*compulsion to contract*,' i.e., to oblige the sellers united in the cartel to sell to any one at the prices it has fixed. But this procedure might involve far-reaching interference with the marketing organization of a trade, and should only be employed in case of emergency. It is true that this rule obtains to a limited extent in the case of the posts,

railways and the like, and also that the obligation of a patentee to give a licence for manufacture is in some degree analogous, but it must be considered that such methods of compulsion, while interfering drastically in the right of free contract, would in practice seldom lead to the effect desired. For normally the monopolists do not refuse to supply, but offer to supply on less favourable terms, and to forbid any differentiation at all between customers has proved quite impracticable. Here too the problem proves to be one of judging whether a price is justifiable in the individual case, and a formal juristic regulation of the conditions will not accomplish much. If, as the socialists demand, obligatory contracts were prescribed for all organizations having a monopolistic tendency, this would involve the workers' organizations as well, and would deprive them of one of their most valued weapons.

If a general regulation is to be attempted, it will above all be necessary to distinguish between complete boycotts on the one hand and the mere raising of prices against outsiders on the other; further, to decide whether we have to do with a onesided obligation or alliance, or with exclusive trading which brings advantages to both parties. We must also concede that the principle adopted by the Supreme Court of according equal treatment to such agreements whether they are concluded by workers or by employers is entirely justified. The actual conditions differ however so greatly in different cases, that it is extremely difficult to establish general principles and very much must be left to the discretion of the judge.

We shall give an instance to show how far-reaching contracts of exclusive trading sometimes are nowadays. The German Cloth Convention, which, as we saw above, has exclusive trading agreements with five associations of wholesalers, concluded in 1921, in company with a number of other weaving cartels, an agreement for exclusive trading with a number of associations of men's clothing manufacturers. These latter thereupon demanded a boycott of materials to be decreed against no fewer than seventy-two clothing factories in twenty-six different localities, on the ground that these had bought certain stuffs cheaper from cloth factories outside the cloth cartels. There can be no doubt that such proceedings require at the very least careful watching by the Government.

Abuses arising out of agreements for exclusive trading have frequently been the subject of judicial decision, and of actions which have gone even as far as the

Supreme Court. This Court has generally declared this type of agreement to be admissible, so long as it does not completely ruin the firm affected by making it impossible for it to continue in business. This however is a question of fact, and it will frequently be difficult to decide whether the ruin of a firm is due to this or to other causes. In addition, §1 of the Unfair Trading Law of 1909 gives the judge wide powers to protect third parties against methods of pressure exerted by monopolistic associations.

The 'loyalty rebate' and the 'additional bonus for protection' are to-day questions of acute legal controversy. The Supreme Court in a decision of April 1922 declared that the requirement that members should sell 20 per cent dearer to persons who were not members of another combine constituted extortion, and it awarded damages on the basis of §§826 and 831 of the Civil Law Book.

The 'bonus for protection,' which is struck off the sums payable if the buyer has agreed to exclusive trading, was declared, in a case which attracted widespread attention, by the High Court of Saxony to be an offence against public morality. The question of its admissibility however cannot possibly be decided in general terms. In particular, it is necessary to distinguish whether any injury is inflicted upon third parties, or whether, as in the Dresden case, the Court is merely concerned with the effects of one association upon another. But again, persons standing outside the cartel may, as we saw above, be injured and may merit protection in very different degrees in different cases.

The question of the validity of exclusive contracts has now been very considerably clarified by the judgements of the Cartel Court, which in numerous decisions has been occupied primarily with this device. There can be no doubt — on a consideration of §1 — that the law applies to all sorts of contracts of this nature, only however where they are concluded by the classes of association named in §1, and thus not when they are enforced by single big firms. According to §8, 'denunciation without notice' is admissible 'for urgent cause.' Now, it is precisely this kind of contract which greatly restricts the 'economic freedom of action' of the individual. §9, clause 1, is also of great importance in considering the position of exclusive trading contracts; it runs : 'Pledges given may not be realized nor boycotts or other sanctions of a similar kind be imposed on the ground of contracts or resolutions of

the kind specified in §1i, except with the consent of the President of the Cartel Court. This consent will not be given in cases where such penalties would endanger either the national economy or the public interest, or restrict inequitably the economic freedom of action of the individual.’

The ‘pledges’ named are normally methods of internal compulsion, generally taking the form of promissory notes. Boycotts are weapons both of internal and external compulsion.

§9 requires before the application of such measures of compulsion the consent of the President of the Cartel Court, but here again only in the case of associations specified in §1, not of individual firms, concerns or trusts. These, as has been already observed, may impose boycotts and the like without any such consent. This state of affairs is the more remarkable since the following paragraph (§10) extends to these organizations too; though it is true that it only takes account of a possible danger to the national economy or to the public interest, which can seldom be proved. §9, on the other hand, affords protection also to the individual whose economic freedom of action is inequitably restricted by such methods, and herein lies its main importance. Consent to the practices specified will normally be given, but it may be refused both for the protection of the public interest and also for the protection of private interests. It must be observed that it is not the threat of a boycott but the imposition of it which requires the consent of the President; not the concession of the ‘loyalty rebate’ but the refusal to concede in a particular case. The conclusion of a contract for exclusive trading does not in itself imply the imposition of a boycott.

The Supreme Court has in a number of decisions recognized such compulsion to organize as lawful. It decides in each individual case whether the method of compulsion proposed is lawful; whether the purpose proposed is not an immoral one; and finally whether the methods of compulsion employed stand in reasonable relation to the end in view. But the economic conditions with which the policy of the boycott or the exclusive contract in general is intimately bound up, may alter very rapidly, and this fact may alter both the expected effects upon the individual business (if the general economic conditions change, an otherwise harmless boycott may endanger the economic existence of a business) and also its effects on the national economy — e.g., in certain circumstances the enforcement of a boycott might

endanger the public interest by rendering the supply of certain important goods to a certain territory difficult.

A boycott might also be justified as a counter to acts which a cartel merely recommends to its members. For instance, if a producers' cartel recommends its members not to supply certain goods to the stores, the association of the stores might institute a buyers' boycott of the cartel. It might even be questioned whether such a boycott would require the consent of the President of the Cartel Court, since, as has been said above, according to the hitherto accepted view of the matter, mere recommendations are not covered by §1.

In a much-discussed decision of the Cartel Court of 19th May 1924 the Court refused to consent to the boycott of a certain manufacturer on the ground of an exclusive contract, since this manufacturer as an outsider had to pay 25 per cent more for his supplies in any case, and had bound himself by a deed to uphold the selling conditions imposed by the cartel.

The Cartel Court, consistently with the decisions up-to-date of the other courts, has declared the protection bonus and the loyalty rebate to be in general admissible, but only for goods and services of the same or similar kind. A customer may not be forced by the weapon of the loyalty contract to buy all the other kinds of goods controlled by the combine, however dissimilar they may be, from members of the cartel only. The question what constitutes similarity is left open to be decided in the particular case. For instance, the loyalty rebate on soap cannot be made conditional on the trader also buying all his candles from members of the cartel only. Such a restriction is to be approved in principle, since it is desirable to prevent any seller — though the ruling of the Cartel Court applies only to associations — from taking advantage of some particular services rendered in one field to secure himself a monopoly position in another — as happens in America.

The loyalty rebate however should not be used to put up prices excessively to those who have stood outside the agreement. A 'bonus on protection account' of 25 per cent might be regarded as the outside limit of what compulsory organizations should be permitted to demand.

In the view of the Cartel Court a linking of loyalty rebate with cash or quantity rebates, i.e., with rebates on a purchase of particular quantities or for payment within

a certain period, should not be permitted. I do not support this view (nor does Hausmann-Holländer).

The difficulty of the economic questions involved in the boycott may be gauged from one of the most important recent decisions of the Cartel Court, that of 22nd April 1926. First the President of the Cartel Court and then the Cartel Court itself refused its consent to a boycott by which an association of Pomeranian coal merchants was attempting to prevent certain new coal merchants from starting in business, although these were ready to come into the association and to sign the deed required of them by the East Elbian Brown Coal Syndicate. The association's main argument was that this branch of trade was overcrowded and that an addition to the numbers of the coal merchants would end in increased prices of goods. Thus the exclusion of these merchants was not merely not prejudicial to, but actually desirable in the public interest. The rejection of this contention by the Court was based on the right principle that even though compulsory organization is admissible, still its methods should not be employed against outsiders who are ready to come into the organization. From an economic point of view this result might appear unsatisfactory, since it might, in fact, encourage an overcrowding in the coal-dealing trade, and so (where this is cartellized) lead to a rise of price. But a closer consideration throws a different light on the matter. If monopolistic organizations are once permitted, any obligation laid upon them to accept as members any trader who fulfils the agreed conditions tends to weaken these organizations and rather to encourage free competition. For if the numbers of the participants are too great, the association will break up, especially since the producers' cartel will have no interest in spoiling the market for its products by conceding excessive profits to the merchants. The obligation to accept outsiders who wish to come in is generally more likely to ensure the springing up of new competition, and especially the adoption of technical and economic improvements, than would be the case if the cartels were enabled to keep the numbers of their members fixed.

In a case which was much discussed just lately the President, on the basis of §9, refused, but the Court gave its consent to a joint boycott by the Cartel of Dramatists, Composers and Publishers and the Association of the German Stage against the directors of three Berlin theatres who had resigned from the Association, on the

ground that this did not involve any threat to the existence of the theatres. The authors however were not to be forbidden to offer their works for production by the three directors, but these latter were to be forced to observe the conditions fixed by the cartel. Here it was once more a question of price. The question of the public interest was also involved, since the three principal Berlin theatres were held to have 'considerable importance for the general public'! But it was held to be of even greater importance 'to protect the authors of dramatic works from poverty and economic exploitation.'

Thus we find that in all such decisions it is necessary to weigh very various interests against one another, and orders or prohibitions couched in general terms would avail very little.

The Norwegian law of 1926 is much more drastic but also much more rough and ready in its dealings with exclusive contracts. In Chapter VII it lays down extremely detailed regulations for 'boycotts, exclusive agreements, and indefensible price discrimination.' The regulations however have been considerably relaxed in comparison with those contained in the first draft law of 1923.

It is forbidden to bring about a trade boycott or to invite others to participate in such a boycott, or to aid or abet such a boycott in any way, if there is any presumption that the said boycott might be prejudicial to the public interest, or might have inequitable results, or might result in unreasonable treatment of the person or persons boycotted (§21).

A boycott is denned as a refusal to enter into trading relations either with another trader or with a consumer on the usual terms, where such refusal is made on one of the following grounds:

That a restriction of the number of persons in the trade is aimed at; or that the person or persons affected constitute a co-operative society, or are in trading relations with a co-operative society, or do not participate in some compulsorily registrable combination, or registrable agreement, resolution or firm; or that he or they accept different prices and conditions of trading from those laid down or practised by other traders; or that he or they refuse to maintain exclusive or preferential trading relations with any single trader or a limited group of traders.

The essence of §22 is that agreements for exclusive trading or trading on

preferential terms are forbidden, if prejudicial to the public interest or involving unreasonable treatment of any outside person. No one is permitted to offer or accept any rebate or other consideration as compensation for entering into a trading combination of this kind.

‘The Control Board may, on the proposal of the Control Office, forbid a trader to make any differentiation between particular customers or districts in respect of prices or other conditions of trading, ... or to supply goods at an obviously insufficient price or to buy goods at an unusually high price, if it appears to the Board that this may restrict competition unreasonably and that it is intended to damage a competitor.’

The general trend of all these regulations shows that in all countries it is, generally speaking, left to the discretion of the judge — which is generally based on the previous practice of the courts — to decide what, in the case of such agreements, is ‘unreasonable,’ ‘immoral,’ ‘a danger to the public interest,’ etc. It is thus desirable to provide a Special Court, such as the German Cartel Court, which, from the large number of cases, can gradually work out the general lines which its decisions will take. In view of the complicated and various conditions obtaining in the different industries the co-operation of experts is particularly important.

Chapter XXIV: Possible Improvements in Cartel Law.

In any discussion of the legal regulation of the cartels in Germany up to the present day we always find two parties taking opposite views. The one party considers that the Government with its special legislation, and above all the Cartel Court with the restrictions on the cartels imposed by its decisions, have already gone too far. The other party, on the contrary, demands more drastic interference and a stricter supervision of the cartels. This is in the main due to their general outlook on life, which makes them inclined to advocate anything which looks like 'planned economy,' without considering whether there *is* really any plan at the back of the various actions and interferences of the State authorities, and without themselves producing any new principles for the regulation of the economic system.

An impartial observer would have to admit that there have not, up to date, been any really serious cases of injury to considerable sections of the public, or of pressure being brought to bear which goes beyond what is customary in economic warfare — which is, for instance, in any way comparable to the damage done by the great struggles between capital and labour. If this is so, the powers hitherto exercised by the State will, generally speaking, have been sufficient. Still it is quite conceivable that German Cartel Law as now obtaining could be improved at certain points.

Probably the main objection that could be raised against the prevailing system of regulation of the cartels is that there are too many authorities to whom it is possible to appeal; so that *rapid* decision — vital in economic affairs — cannot be obtained, or at least that a clever party to the dispute could prevent it from being obtained. These authorities are :

(i) The Cartel Court and its President, which in certain cases, namely, those connected with the approval of boycotts (§9 of of the Cart. Ord.), constitute two separate authorities;

(ii) The ordinary courts of law, which again may in certain circumstances be replaced by Arbitration Courts. In spite of the existence of the Cartel Court the competence of the ordinary courts is still very considerable, e.g. in respect of exclusive trading contracts especially. Plaintiffs have been frequently passed on by the Cartel Court to the ordinary courts.

(iii) The executive authorities — the Reich Ministry of Economic Affairs and possibly (Cart. Ord. §16) the Ministry of Agriculture.

(iv) The private Conciliation and Arbitration Offices, which must also be taken into account, e.g. the Cartel Office of the Federation of German Industries. In the case of boycotts it is by no means uncommon for application to be made to all the three authorities mentioned under (i), (ii), and (iii) above simultaneously, if one of the parties requires a decision quickly. These authorities however often give conflicting decisions, e.g., on the question whether the boycott at issue requires the consent of the Court or not.

It would therefore be desirable in dealing with exclusive contracts to eliminate the Ministry of Economic Affairs and in general all administrative authorities altogether, giving these at the most a right of prosecution in the public interest. On the other hand, now the Cartel Court has once been established, I do not consider that it should be abolished, leaving all complaints as to boycott, exclusive trading, etc., to be dealt with by the ordinary courts, or, as Isay suggests, by special chambers of the High Courts of the constituent States. For this procedure would certainly not achieve the desired uniformity of judicial decision on questions which leave so much to the individual judge's discretion, whereas a single judicial authority like the Cartel Court will bring about this result in time. Nor do I imagine that the Reich Government would be easily induced to abolish this new institution which it has so recently set up. If the Cartel Court is retained its constitution should certainly be altered, since the present position of the Assessors, who are experts and judges rolled into one, is rightly objected to. I will not here enter into the question of improvements in organization of the Court, or whether appeals against its decisions should be

admitted.

The reform of cartel law was dealt with in detail at the Salzburg Congress of Jurists held in the summer of 1928. The memoranda of Isay and Nipperdey³⁹ and the paper read by Lehnich included suggestions for the reform of cartel law, which were adopted in the ‘Resolutions’ of the Congress. All the papers and speeches express a desire for a stricter separation of the private-law and public-law aspects of the cartels — which aspects the Cartel Ordinance certainly confuses in a most remarkable way. According to the Resolutions of the Jurists’ Congress:

‘B. On the private-law aspect of the cartels:

For all relations in private law the principles of the Civil Law should be decisive. This implies especially the repeal of Cart. Ord. §§9, 10, and 12.

The regulation of the right of terminating without notice for urgent cause should be emended in the following particulars:

(a) Termination should be in writing.

(b) It should take effect only after time has been given for objection to be raised, or after decision of the Court.

(c) It should be laid down that the Court in coming to its decision is to take into account both the disadvantages that would accrue to the member terminating if he remained longer in the cartel, and also the damage to the other members resulting from his premature termination of the agreement (verbally from Isay’s memorandum).

(d) The Court should only be permitted to consent to the termination, if no steps are taken by the cartel within a given time to make it tolerable for the member terminating to remain in the cartel.’

Exception is taken above all to the preventive measures provided for by the terms of Cart. Ord. §9, viz. the necessity for boycotts and similar practices to be approved in advance, on the ground that this applies to the restrictive practices in question only when they are resolved upon by cartels, not however where they are employed by individual firms or trusts, which do not ‘resolve upon’ a boycott but simply do not deliver or refuse to take the goods. Formal approval is little suited to such measures as these, which must be enforced suddenly if they are to be effective; and, finally, ‘it leads to a hopeless confusion of competences as between the ordinary courts, the

Cartel Court, and the Reich Ministry of Economic Affairs, so that we normally find three different sets of proceedings going on at the same time.’⁴⁰

Though I do not share the opinion that the effects of these practices are purely matter of private law, still it seems desirable in regulating them to eliminate the administrative authorities. But there are also grave objections to leaving them to be dealt with by the ordinary courts, since their far-reaching effects make uniform regulation particularly necessary.

The greatest number of the Cartel Court’s decisions have been concerned with questions of termination without notice on account of oppressive conditions of trading, exclusive contracts and the like, i.e., with cases arising out of §§8 and 9 of the Cartel Ordinance. Cases arising out of the strictly *monopolistic* effects of the cartels, involving questions of price-policy and control of markets, were not merely less numerous but also less important, since the ‘regulating influence of open competition,’ apart from relatively few special cases, is in reality never quite excluded but merely driven into the background. Thus in the long run the prices fixed by the cartels cannot differ so very much from competitive prices. In other words, the true organizing principles of our economic system have remained, in spite of the cartels, exactly the same as before.

In dealing with the public-law aspect of the cartels the memoranda presented to the Jurists’ Congress and its resolutions do not go very deep; they are content simply to provide a new *organization*. In the ‘Resolutions’ we read: ‘II. Cartels and large-scale undertakings capable of exerting an influence on the market should be put under the control of the Reich, which will be exercised by the Reich Minister of Economic Affairs. He will be advised by a freely appointed, independent committee of experts, with power to co-opt additional members, consisting of distinguished representatives of the sciences and of the business world.’ (Representatives of the learned world are put first; but these will have on each occasion to acquaint themselves first with the conditions in each particular industry, so that the formation of decisions is likely to be an extremely lengthy and wearisome process.)

They propose that supervision should be conducted on the following principles:

(i) (summarized) Information. Inspection of books. The taking of evidence on oath. Commissions of Inquiry.

(ii) If warranted by the urgent requirements of the national economy, the Reich Minister of Economics should be empowered to order that certain of these economic bodies should submit to him all resolutions before putting them into execution.

(iii) Apart from this the supervision by the Reich should restrict itself to upholding urgent interests of the national economy, while also having due regard to the justifiable interests of the given branch of industry. It should be implemented in the first place by confidential negotiations, if need be also of administrative measures, to be specified beforehand by the legislature, preceded by a hearing of the views of the expert committee.

(iv) The administrative measures are to consist in the power of the Reich Minister of Economic Affairs, under threat of a penalty, (a) to dissolve cartels, (b) declare contracts and resolutions void in whole or in part, (c) forbid the employment of particular methods.

Appeal against the order of the Reich Ministry of Economic Affairs is to lie in the Reich Administrative Court (which, however, has first to be created); it decides whether the administrative act is in order, after hearing the views of the Expert Committee.

To show how the jurists fondly imagine it to be quite a simple thing to transfer important economic functions to a political authority, we shall cite the following sentences from the Memorandum of Professor Nipperdey (p. 62): ‘We must put something or other in the place of the traditional regulating element, viz. open competition, and this can only be a wisely exercised expert *supervision by the State* of the prices of all powerful economic bodies. We must prevent all prices that are not warranted by the national economic situation, since these would be prejudicial to the national economy. We need no longer trouble to refute the objection that has often been raised — that the State is not qualified to do this — especially when we place experts side by side with a Minister.’ Views of this kind imagine the problems of economic policy to be far simpler than they really are; our difficulties, in fact, only *begin* when we come to decide *whether* in any given case we find damage to the national economy or the public interest which would justify us in dissolving a cartel. The view that a Minister, even with the assistance of an expert committee, will often be unable to form a correct judgement on this point has certainly not been refuted;

decisions of this kind are just as difficult to take as ever they were. The Memoranda and the 'Resolutions' of the Jurists' Congress unfortunately show still no understanding of the fact that 'Interests of the national economy' or 'public interest' are neither precisely defined concepts, nor sets of facts, but that every man is likely to hold different opinions as to what they imply — that, to call them by their right name, they are mere phrases which every one uses to refer to something different.

The Memoranda, like the Cartel Ordinance, are content to oppose to the private interests of the cartel members the 'public interest,' the 'common weal,' or the 'claims of the national economy as a whole.' It is true enough, as Nipperdey (p. 67) says, that the relationship between the whole community and its members has been the great central problem round which juristic thought is continually revolving. But when our author proceeds 'And only the jurist is competent to solve this problem,' and yet knows of no other 'solution' but that of leaving the problem to a Minister or a committee — this can scarcely be regarded as a solution or likely to satisfy the political economist.

In addition, it still seems as if many jurists had no idea of the difficulty of deciding when a given price exceeds the limits determined by economic conditions. It is no solution to abandon the question to an Expert Committee.

To the political economist the matter does not appear so simple. Those economists at least who have gone into the facts of economic life somewhat more deeply, recognize that it is not in the least true to say that 'the principle of open competition has disappeared for ever from large tracts of the business world,' as Nipperdey writes — in this supported by certain imaginative economic publicists, who profess to 'stand already in a new economic order.'⁴¹ The great importance of the problem of the outsider shows how little, in spite of all the cartels, competition has been eliminated as an efficient factor in economic life.

The proceedings of the Jurists' Congress show how many jurists — and in fact many political economists too — overestimate the formal aspect of economic affairs — overestimate the possibilities of really regulating the economic system, and underestimate the strength of the internal forces which drive it. This, as I have shown elsewhere, is one of the evil fruits of the traditional (in Germany) collectivistic theory of economic life, which treats 'the national economy' as if it were an

economic unit, as if it were a deliberately created Institution, capable of alteration *ad libitum*, thus overlooking the individual motives of all exchange.

In reality there are hardly any 'interests of the national economy as a whole' or 'general economic interests,' but merely interests of larger or smaller economic groups, which interests have to be weighed against one another.⁴² Even when the national interest is taken as opposed to that of foreign countries, not all the economic groups can be said to have an equal interest in such national gains or losses. The authorities have the task of balancing the various interests against one another. This, however, is nowhere more difficult than in dealing with price-agreements, since the economic situation not merely of the various producers, but equally of the various groups of consumers, differs greatly from case to case. Any interference of this kind with important industries has far-reaching effects which cannot be foreseen upon other branches of trade, and will thus always be merely an *ultima ratio*. This is why we find that §4 of the Cartel Ordinance has been put into execution less often than any of the other paragraphs. Such interferences will in practice be rare, and one should not imagine that when once one has set forth a number of rules of this kind one has '*regulated*' the economic system.

For this reason it is merely a question of form whether in accordance with the terms of the Cartel Ordinance the Reich Minister of Economic Affairs should propose to the Cartel Court that a certain resolution of a cartel be declared invalid; or whether on the basis of the Jurists' proposals he should dissolve the cartel himself after hearing what the expert committee has to say. In most cases the matter will never get so far, but 'economic influence brought to bear by methods of confidential negotiation,' as is provided for even by the Jurists' Resolutions, will suffice to settle the matter. But this simply means that within the limits of what is possible in the way of price the decisive factor is — which of the two parties is the stronger or the weaker in respect of political influence? It must always be considered that in economic life it is impossible to determine what is a just price, and that arbitration in economic warfare, however expert the arbitrators may be, can only lead to a certain compromise between the interests and not to absolute justice.

The dissolution of a cartel, if this is really what has been decided on, does not help matters much either, since the cartel can come to life again next day. No objection

can be made to the existence of a cartel in itself, but merely to the prices it has fixed in a particular case. Since it is always merely the interest of groups which is at stake, and since the 'interest of the public' is an empty phrase, it would be better if the actual cartel law recognized these facts, and, instead of dissolving the cartel, instituted a Conciliation or Arbitration procedure on the question of prices, as is done with wage-disputes, which latter may certainly do as much damage to the national economy or the public interest as the price-fixing policy of a cartel. It is much to be recommended that trade unions and cartels, forms of organization which are essentially the same, should as far as possible receive the same treatment at the hands of the law, while carefully distinguishing between the two kinds of economic warfare, price-struggles and wage-struggles, in respect of the different weapons employed in each.

The important matter for courts of law is to find some general criteria by which to judge an abuse of economic power. It is perhaps possible to find such criteria in the case of exclusive contracts or boycotts, but not where price-policy is at issue. Prices and their effects can only be judged in relation to the conditions obtaining in the individual case, and never with any certainty even then. For this reason it seems to me that the establishment of a special judicial body in itself accomplishes little. The main purpose must be to prevent complaint of monopolistic price-policy arising, and where complaints become too insistent, to allow conciliation or arbitration proceedings to be set on foot, as is now done in wage-disputes. In such questions we should have as little consideration in the first instance, for 'damage done to the community' or to the 'public interest,' as we now have in dealing with wage-disputes.

When embarking on the reform of the Wage Courts we might consider regulating complaints against the cartels in the same sort of way by compromise between the two parties, without bringing in any equivocal phrases such as 'public interest' and 'national economy,' which in reality are quite meaningless. In both cases, wages or price-fixing, prices and the conditions of the exchange contract are at issue.

'In a struggle between individuals and organizations,' writes *Tschierschky*,⁴³ 'it is the latter that deserve our support, provided it is a case not of the exploitation of a position of economic advantage but of the defence of legitimate interests.' Usually,

however, we have to do with a struggle between groups of organized interests, and it is then exceedingly difficult to decide which interests are the more important for the community as a whole. In fact, it is often a question of one's general outlook on life which way one decides. If one weighs the interests of different sections of the community against one another, the interests of the producers would almost always have to give way to those of the consumers, since the latter are normally more numerous than the former. State interference on this assumption should invariably be directed to securing cheaper prices and wages — i.e., should be directed against the producers. In particular, the State should invariably interfere against the trades unions and their desire for increased wages, if ever it seems probable that these would result in increased prices to the consumers. But it is certain that the cheapest possible price is by no means always the most desirable from the economic point of view — apart from the practical impossibility of determining what is the cheapest possible price — above all where such a price is due to or results in the disorganization of production; for, in this case, the consumers cannot count on it for any length of time and it involves the dangers of violent fluctuation, great economic instability both of suppliers and purchasers, the predominance of speculation, etc., etc. But it is difficult to estimate the extent of these different factors and to balance them against one another; and so utterly impossible to predict how they will turn out in practice that even a collection of experts will hardly ever be unanimous in their verdict. To place the responsibility of forming a judgement upon some *State official*, however, is probably not conducive to the maintenance of the State's authority unimpaired, since widespread interference by the State in economic affairs, far from increasing its authority, only diminishes it.

The appointment of State officials to the Boards of the cartels in the capacity of permanent supervisors — as the Social Democrats demand — or to the managing committees of the trades unions — as the employers, in the interests of equal treatment all round, demand — would in my opinion be a mistake. This proposal is as little possible to-day as was Gustav Schmoller's proposal of twenty years ago that the State should appoint officials to the supervisory Boards of joint-stock companies. The many hundreds of experts required to give effect to this proposal, if they could be found at all, could be employed better elsewhere. Still less is it possible to allow

the representatives of the workers a right of appeal to these 'economic policemen,' as the Socialists demand.

Nothing would be more damaging to the economic system than that the free processes of exchange should be fettered to a chain of State authorities in the manner proposed. It ought at least to be clear to people that no matter how many organizations and authorities are created, the basis of our economic life will not be altered, but the compensatory effects induced by the free play of forces will be short-circuited or impeded. A universal economic police, such as many people desire to-day, would be 'planned economy without a plan'; such proposals confine themselves to creating new authorities and new officials with a lack of any new constructive ideas.

Economic life is not a 'creation of the legal system' any more than money is; the legal system must be content to try and help on this development and hinder that, and will have accomplished a good deal if ever it comes to realize clearly the principles upon which such encouragement or discouragement should be based. It has never been able to lay down the principles of a new economic order, but on the contrary has had to follow and try to keep pace with the course of economic development, which has proceeded according to a sort of natural law.

Chapter XXV: Tariff Policy.

There are still certain special measures of economic policy which have long been regarded as weapons to be employed against monopolistic associations; and while these have hitherto been of no very great economic importance, yet they deserve a detailed discussion to themselves.

Reduction of tariffs was the most obvious remedy to propose as a means of countering excessive price-increases resulting from cartel action. But such a remedy is evidently not applicable to many monopolies. Monopolies which are based upon restricted natural sources of supply, as with potash, or on extremely heavy costs of transport relatively to the value of the product, as with coal or cement, will usually hardly be affected at all by any tariff changes designed to promote foreign competition; in fact they are usually not protected at all. Still the number of products, in the case of which tariffs have had an influence upon the formation of the cartels, is very great, and here tariff reductions would have a very considerable effect. Only here we are once more faced with the difficulty which arises where any extensive regulation of cartels is proposed, viz. the difficulty of deciding whether the public interest is prejudiced or not. If such a decision is to be made the basis of changes in tariff policy, it cannot possibly be left to a judge or even a Minister of Finance, but would involve the passing of a law. Since it is for the legislature to decide whether there are to be customs tariffs at all and what is to be the level of them, it must be left to the legislature to resolve on a reduction of tariffs as a weapon against monopolies. Thus no speedy remedy of abuses can be expected from such tariff changes. But, in most cases, the mere fact that reduction of tariffs is being discussed in the Reichstag

will suffice to make the cartel more cautious in its price-policy. True the Reichstag can, of course, discuss the damage inflicted by a cartel without the Tariff Law having any particular provision for reductions; but such discussion is certainly more effective if there is the possibility of tariff reductions in the background. Such tariff reductions might possibly apply to imports from certain countries only.

In the same way, reductions of railway freight rates may equally well be used to promote the import of products under cartel control. But nothing has been done in this respect in Germany, although it is in Germany with her extensive State Railway system that it might be most easily effected. On the contrary, the railway rates frequently concede more favourable terms to exporters, even of monopolized products, e.g., Rhenish-Westphalian coal. They thus sometimes penalized home manufacturers near the frontier, e.g., factories in Bâle frequently got their coal cheaper than factories in South Baden. Where a given product is permanently monopolized, cheaper railway rates for export ought to be abolished. But measures involving extensive interference in economic life which can be effected by tariffs or railway rates ought not to be left to the decision of any single Minister; if there is no Cartel Office capable of taking a view of the economic system as a whole, *ad hoc* committees of experts should be formed for the purpose.

Another proposal which is frequently made is to reduce tariffs for products which the German cartels are selling cheaper abroad than they do in Germany. Proposals in this sense were often put forward before the War both in the Reichstag and in the Tariff Commission. They rest, however, upon a complete misconception of the way in which cartels produce their ill effects. It is clear that a cartel which sells nothing at all abroad may by its high prices damage the power of home manufacturers to compete abroad quite as much as an exporting cartel. The extent of the difference between home and export prices is important — not the question whether the raw-material industry sells more cheaply abroad. It would therefore be unjust simply to take tariffs off industries which happen to export, but not off other industries which damage the consumer just as much even if they do not export. Reductions in tariffs and railway rates must be applied to all cartels whose price-policy appears injurious. The mere fact that a cartel sells cheaper abroad is never a criterion of injurious practice — the only criterion is : are home prices quoted by it excessive?

But the proposal is impracticable on other grounds too. Many industries do not work for export regularly, but only temporarily, at times when the conditions of the home market happen to be unfavourable. What then if a cartel ceases to export in times of depression? Presumably the old tariffs must be reintroduced. And if home prices then go higher, as is only natural where there is a strong demand, then the moment the least possible quantity is sold more cheaply abroad, the tariff has to be taken off again. Obviously such a procedure is quite impossible in practice.

The employment of tariff reductions as a weapon against cartels appears to have been first suggested in Russia. In the case of the private sugar cartel, as it existed between 1887 and 1896, the Ministry of Finance had the right to propose to the Council of Ministers a reduction of sugar duties, if ever the price of sugar on the exchanges of Kiev and St. Petersburg went above a certain figure. In actual fact, when, in 1892, sugar prices rose sharply as the result of a bad harvest, the Ministry did not make use of this weapon, but employed instead the interesting device of buying some 35 million kilograms of sugar abroad and selling it on various markets in such a way that the price could never exceed 5.6 roubles. The State thus made a profit of some 3,000,000 roubles. This is a measure which might still be usefully employed against a protected internal monopoly.

The Austrian draft cartel law of 1897, like the Russian, gave the Minister of Finance a similar right to reduce tariffs, but the draft was never submitted to Parliament.

Measures of tariff policy against cartels were first employed in Canada. The Canadian Tariff Law of 1897, as well as that of 1907, envisaged the possibility of tariff reductions, if the price of any commodity were to be excessively raised by the action of combines at home. This resulted, in 1902, in the paper duty being reduced from 25 per cent, to 15 per cent. The subsequent laws of 1910 and 1923 also made provision for tariff measures.

New Zealand has gone even further. A law of 1907 aimed at protecting consumers against monopolies in the flour, wheat, and potato trades, and provided for the suspension of the tariffs in question for a minimum period of three months, on the proposal of a commission of inquiry. The commission was to conduct investigations from time to time with a view to deciding whether wholesale prices in New Zealand

of the goods in question were unreasonably high or not, and might thereupon propose to the Governor suspension of the duty. The price of potatoes is considered to be unreasonably high if ever it exceeds the price of £7 per ton named in the law.

Thus we find an instance here of the employment of the kind of Price Commission recommended by us above. The same procedure is employed to protect the New Zealand producers of agricultural machinery, on the basis of a law directed against the American Harvester Trust. If any two New Zealand manufacturers lodge a complaint that they are being considerably undersold by machines from abroad, then a particular commission, the Agricultural Implement Inquiry Board, is to be called upon to investigate the matter. Should this Board recommend State support of New Zealand industry, the Commissioner of Trade and Customs may decree, not increased duties, but a bounty up to 33 per cent to enable the home products to compete with such imported machines in the home market. Agricultural implements, however, if manufactured in Great Britain or Ireland, receive the same treatment as the New Zealand machines.

Subsequently a general Monopolies' Law for New Zealand was enacted permitting complaints by the public to be made against monopolies. If such a complaint is tendered to the Supreme Court — which may be done either by the State authorities, or by a business man who claims that his interests are prejudiced by the monopoly, or by any thirty persons of consideration and importance, then a preliminary investigation has to be made by two public prosecutors, who have the right to subpoena witnesses, take evidence and inspect books. If the two officials decide that a monopoly exists, a final decision is reached in judicial proceedings before three judges of the High Court. The High Court may thereupon dissolve the company and forbid participation in it under threat of penalty. The Governor then has the right to reduce tariffs, etc. For the reasons discussed above, however, we cannot think that it is desirable to leave the decision of such difficult questions to Courts of Law alone.

While some recommend tariff reductions and exemptions as weapons against the cartels, others demand an *increase* of tariffs to protect their home industries against foreign industries which sell more cheaply abroad than at home. It has been proposed to include in Commercial Treaties an '*Anti-Export-Premium Clause*,' giving the State the right to increase the duty on a given commodity wherever a foreign State

sells it cheaper to us than it does within its own frontiers. But such a measure is actually even more difficult to put into execution than the other proposal for preventing the home cartels from selling cheaper for export,⁴⁴ and for the same reasons. First, there is the difficulty of deciding when a commodity is really sold cheaper for export; and second, the impossibility of adjusting tariff changes to a position where a commodity is only occasionally sold cheaper abroad, and, with it, the insecure position of the finishing manufacturers and the perpetual conflicts which would result.

Powers to increase tariffs as a weapon against foreign monopolist organizations have been taken especially by Canada. By its Tariff Law of 1907, earlier provisions with this object were extended, and tariff increases were granted on commodities sold cheaper in Canada than in the country of origin, provided similar goods were also produced in Canada. In the year before the War these Dumping Duties brought in some £50,000 a year. The United States, too, has at times attempted to lessen the competition from which its own industries were suffering as the result of cheap sales for export by a tariff device, — calculation of *ad valorem* duties on the highest price asked for the given class of goods in the country of origin; and before the War efforts were in progress to extend this system further.

The struggle against ‘dumping,’ or the policy of cheaper sales for export, played a large part in the history of the last few decades before the War, and was indeed one of the factors contributing to the outbreak of the War, and above all to America’s participation. It certainly cannot be proved that this method was employed by Germany more than by other countries — on the contrary, the protective duties — and therefore the possibility of cheap exports and big export premiums — were higher in a number of other countries. Foreign countries made far more of an outcry about Germany’s dumping than Germany did about foreign dumping. The German people, confident in its own economic strength, took these practices of its opponents quite calmly, as being a natural and ordinary weapon of economic warfare. But the other countries deliberately inflamed public opinion against German dumping as part of the general campaign of lies they had long been conducting. Perhaps German industry in its cartels possessed a better organization than other countries did, but it was certainly not given greater support by the State, as its enemies asserted.

During the War the United States passed the Revenue Bill of 1916, penalizing dumping among other things in its section on unfair trading practices — meaning, of course, only dumping by other countries on the American market, not the dumping practised by Americans on other markets. The former too is only penalized in cases where it is done with a deliberate intention either of destroying or injuring an American industry, or of preventing the starting of an American industry, or of monopolizing the trade in some line of foreign goods.

Of the so-called ‘Valuta-dumping,’ which put in an appearance owing to the post-War currency inflations, first in Germany and then in other countries, we have spoken in Part III, Chapter XVI, above; and also of the Reparations-dumping induced by the ‘Peace’ treaties. It is to be expected that over-populated Germany, whose foreign possessions have in the main been robbed from her and are now a large source of income to foreign states, would in any case put up fierce competition with foreign countries in order to provide some means of livelihood for so large a population herded together into such a small space.

In fact many countries are either considering or have already enacted laws to make export difficult for countries with depreciated currencies. Thus a large number of countries have introduced import prohibitions for quite a number of commodities. In Canada an exchange dumping clause has been adopted which takes no notice of any depreciation exceeding 50 per cent in determining values in dollars for duty purposes. The United States, on the other hand, propose in the Fordney Bill to take the American wholesale price as the basis of the duties to be paid. The same plan has been already put into force by Japan and the Argentine Republic, and is being discussed in a number of other countries. In England further anti-dumping duties of $33\frac{1}{3}$ per cent have been introduced, in addition to the existing ‘Safeguarding’ duties of the same amount. One should note also the duties imposed in November and December 1931 under the Abnormal Importations Act.

The remarkable fact that these proceedings are as little desired by the country dumping as by the country dumped, and that the former is often anxious to prevent such cheap sales for export, has temporarily brought yet another weapon of tariff policy into favour, viz. the *export duty*. The purpose of this is to prevent excess production, which cannot be got rid of at home, being thrown away abroad in order

to keep prices high at home; to force the excess products to remain in the country and depress the prices there. The plan of an export duty on coal was much to the fore at the time of the coal famines of 1900 and 1906, and also during the Tariff Bill negotiations and on the occasion of the first reform of the German Imperial financial system. The plan of an export duty on potash was also discussed on the two last-mentioned occasions; and above all in July of 1909, when it seemed as if the negotiations for renewal of the Potash Syndicate would break down. The Government announced on that occasion its entire agreement with this measure, which was advocated by the majority of the Reichstag. It was under such pressure as this that the Potash Syndicate was finally renewed, and the danger of an export duty on the industry averted for the time.

It cannot be denied that there are grave economic objections to such a measure, which make it clear why it has never so far been put into practice. Potash and coal lend themselves to export duties if such are required for revenue or purely financial purposes.

But even before the War, potash was not an absolute monopoly which foreign countries were obliged to buy from us at any price; there were other manures they could use in its place if we put up the price of potash excessively.

We observed in Part III that it was the finishing manufacturers who have been chiefly damaged by the price-policy of the monopolistic associations, since they are frequently not in a position to pass on the pressure exerted on them by high raw-material prices to their customers or to the final consumers. Attempts have been made to help them too by way of tariff policy, and the arrangement adopted in their interest is now the most important of all the developments in this field. This is the system of *drawbacks on finished goods*. It consists in postponing payment of duty on the entry of the raw materials or semi-manufactures, and finally remitting it when these are re-exported in an 'improved,' i.e., manufactured, form. This puts the manufacturer in a position to acquire at world prices that part of his raw materials which he needs for export goods, and so makes it easier for him to compete in foreign countries. The private export premiums allowed by the cartels to their customers, i.e., their reduction of price on raw materials to be worked up for export, of course also have this effect, but these evidently depend on the goodwill of the

cartel; they can, for the reasons given above, normally only be conceded to *associations* of manufacturers; they generally increase the dependence of the manufacturers on the mighty raw-material associations; they have rather the character of alms; they are usually abolished whenever home trade is favourable; and finally they are almost always regarded by the manufacturers as insufficient. On the other hand, drawbacks on finished goods are a State encouragement of manufacture for export, and the State has to lose by the reduction of its income from customs duties, at any rate for the time.

Great hopes have been placed on drawbacks, as a general means of combating the excessive prices exacted by the cartels; it has been said that 'they invariably result in severer competition for the home producers of raw materials and semi-manufactures,' and so in cheaper prices of these goods. But this is not the case at any rate in the iron and steel industry, on account of its interlinked groups; these counter the drawback merely by refusing to sell their raw and semi-manufactured products to the finishing industries, working them up themselves instead. Generally speaking, the system of drawbacks for manufacturers will only benefit export, and will bring about little improvement in the situation where the importance of the export market in comparison with the home market is small. In this case, drawbacks, far from resulting in a fall in the price of raw materials, will merely mean *increased competition* for the manufacturers, whom the drawback was intended to help. Still, the device is valuable; the mere possibility of its being employed will often make the cartels more cautious in their price-policy.

The method of drawbacks would doubtless become considerably more important if steps were taken to develop it into a *system of Import Certificates*. A proposal to this effect made by the Centre Party was actually adopted by the Reichstag in February of 1909. Whereas the system of drawbacks provides merely for the reimbursement of the duty paid on the importation of a raw material when the same raw material comes to be re-exported in the form of manufactured goods, import certificates function like cash; they may be used to pay the duty on other imported goods, but in any case they can be tendered in payment for raw materials or sold. They are based on export, and entitle a trader, for example, to import duty free the same quantity of pig-iron as is contained in the iron goods exported. This, however,

constitutes a far larger quantity of pig-iron than is actually imported into Germany, and the scheme can therefore be much more easily used to depress the home price of pig-iron. Import certificates are nothing but a legislative guarantee that the manufacturer who exports goods will be able to get his raw materials at world prices. The demands however which are made for such certificates by the manufacturers who work up iron semi-manufactures seem to me to be going too far, and would involve the destruction of our whole protective tariff system; rather than concede them, it would be simpler and more satisfactory to reduce the pig-iron duties. To-day when the Peace Treaty has robbed us of a great part of our most important deposits of raw material, and when the importation of this raw material is rendered difficult by lack of capital, the drawback system has become especially important as a means of finding employment for German industry.

The foregoing considerations show that the significance of protective tariffs has entirely changed through the development of the cartels. Formerly, in the age of open competition, it was supposed that the effect of protection would be merely to keep out the foreigner, while on the internal market competition between the producers would secure the cheapest possible prices to the consumers. The cartels have altered all that; and now the protected industries take full advantage of the tariff, raising internal prices by the whole amount of the duty and so injuring the home manufacturer. And still more important, these increased internal prices enable the protected industries to sell cheaper and cheaper in the foreign market. Competition is eliminated at home and becomes more and more violent on the world markets. And so we find the protective system, like all such devices of national economic policy, itself setting bounds to its own effectiveness. The different states keep forcing up each other's tariffs, but in doing so merely enable the cartels to put up their own inland prices further, and, with the help of these, to overcome even the increased barriers set up against them by foreign countries.

Such conditions lead, as has been outlined (in Part III, Chapter XIX) to the formation of international cartels; but these, so long as they are confined to a few products of a few countries, are quite incapable of bringing about a satisfactory division of labour as between the various countries; and, on the contrary, normally lead to the strengthening of the national cartels.

Many people are of the opinion that this state of things can only be remedied by a return to free trade; and there is no doubt that under the influence of the development of cartels the doctrine of free trade, which seemed almost dead, received a new lease of life in the decade before the War. In theory, free trade would certainly be the best way of putting an end to a state of things which simply cannot go on for long without becoming intolerable, provided all countries were willing to introduce it simultaneously by common agreement. Since we are one of the most-developed industrial peoples, our industry would not lose by it. But before the War a number of practical difficulties stood in the way of such a solution. In the first place, not all countries were as highly developed as we were. Nearly every country was attempting to encourage some backward industry or other, and for this purpose they needed protective tariffs. No State is willing to abandon certain industries altogether in favour of other countries, and so become dependent on them; all are determined to be as economically self-sufficient as possible. In Germany agriculture played the same part as manufacturing industry in many other states. We could not give up the corn duties, because we required them to maintain our agriculture against more favoured foreign competitors and so to ensure our food supply. Since we made it difficult for foreign agricultural products to enter Germany, it was only natural that states which were accustomed to supply us with these products should have laid duties on the products of our industry, especially products which they could work up perfectly well from their own raw-material resources. This led in turn to inability on our part to let in free the industrial products of states which competed with ours; particularly since our industry, owing to the corn duties, had to pay more for its workers' food than countries with low agricultural costs of production. The general introduction of free trade is therefore theoretically sound; but in practice none of the people who called themselves free traders would seriously recommend its introduction or suggest any way of bringing it about. There stood in the way of free trade great differences between the economic interests of the various countries, and the justifiable desire of all states to maintain as far as possible the independence of their national economy.

In addition, there was the consideration that in the industrial states, as we saw, a protective tariff was the best means of developing industries quickly and of

promoting the most satisfactory forms of organization. With the help of protective duties, the cartels were enabled to keep their prices permanently high above world market prices, depressing these latter more and more, since they could perfectly well export at a loss. The finishing manufacturers, who could not combine into cartels, found themselves in a more and more difficult position; and even where they did succeed in forming cartels, the high price of their raw materials still made export difficult. This made integration and amalgamation of firms more and more profitable, thus promoting economic progress, owing to the cheapening of production. Thus protective tariffs promoted more advanced forms of enterprise; and proved to be a means of education just as much as in the time of Friedrich List. As, however, in economic life no principle can be driven to extremes, and particularly since measures of political interference, if applied in an extreme way, easily produce the opposite effects, so the tendency to excessive exclusiveness in the period after the War compelled the formation of international cartels, which render any further development of the protective tariff system illusory. The question whether economic good sense, which requires the demolition of tariff walls, will prevail over nationalistic exclusiveness or vice versa, will largely depend on whether the present unstable distribution of political forces in Europe — which neither satisfies the right of the peoples to self-determination nor corresponds to their economic capacities — ever gives way to a better state of things. There is no doubt that new institutions like the League of Nations can do a great deal to solve this problem; and in fact we find its Economic Section much occupied, on the one hand with monopolistic combines, and on the other with the question of the reduction of protective tariffs. However, the political forces which dominate the League have hitherto prevented it from taking any positive step in this direction.

Chapter XXVI: State Encouragement of Cartels. Compulsory Cartels.

Once the value of cartels as a means of regulating economic life came to be realized, the State ceased merely to obstruct their development and to eliminate the resulting abuses; it frequently went so far as to *encourage them*. Curiously enough, the only case in Germany, before the War, of State interference with a cartel was where it took steps to *maintain* a cartel that was threatened with dissolution. I refer to the creation of the Syndicate for the Potash Industry by the law of 25th May 1910. Without the intervention of the State the dissolution of the syndicate might have taken place, and competition been restored between the works, which would have prevented further excessive investment of capital in the industry. Apart from this no attempt was made before the War to interfere with the cartel system; the rationing of production in the spirit and sugar industries for purposes of excise indirectly promoted the formation of cartels, but this was not its intention.

Nor was the plan of a State Oil Monopoly, discussed in 1912 as a means of combating the trustification of this industry, actually carried out. During the War, however, the German Government found it necessary to interfere in various directions to regulate cartellized industry. It created a number of syndicates on the model of the Potash Syndicate in a number of trades, partly because it realized that the dissolution of the cartels and the breaking out of unrestrained competition was undesirable, and — which was the chief consideration — would make the economical use of raw materials and labour impossible; partly with a view to

introducing into industries which had no cartels of their own the necessary measure of unification, with the active participation of the parties affected. In the first place State authorities were empowered by an Ordinance of the Federal Council of 12th July 1915 to form the coalowners either of particular districts or of the whole State into a 'Compulsory Syndicate,' unless the owners of at least 97 per cent of the coal production of the district were willing of their own accord to pool their production and their works in such a way as appeared to the authorities to safeguard the public interest. By holding out the threat of this 'Compulsory Syndicate' the Government succeeded at the very last moment in bringing about a 'voluntary' renewal of the Rhenish-Westphalian Coal Syndicate, with the inclusion of the Westphalian mines of the State and all the privately owned mines of the district. This 'transitional' syndicate was to expire on 31st March 1917, but in the autumn of 1916 the syndicate was finally prolonged for five years at least. The State rightly feared that if this great organization were to be allowed to fall apart, a fair and satisfactory supply of the needs of the consumers, and a uniform regulation both of exportation and of the home supply would prove quite impossible. The mere fixing of maximum prices, which had already proved inadequate in other fields, would certainly not have sufficed here.

With the Revolution, as is well known, the 'socialization' of the mining industry began. The laws enacting this are merely a step further along the road marked out by the pre-War 'compulsory syndicates.' The *Sales Bureau* of the Potash Industry was reconstituted by a law of 24th April 1919 with corresponding regulations issued in August of the same year. The final decision as to prices was no longer to be in the hands of Parliament, but of the Reich Potash Council, in which employers and labour have only eight seats each, while fourteen seats are assigned to consumers and representatives of the sciences. The Reich Minister for Economic Affairs has the right to reduce prices, after hearing the views both of the Potash Council and of the directors of the syndicate. The practical work is done, as before, by the Sales Bureau, on which the workers are also represented, having one representative on the directorate and three on the supervisory board. The participation quotas are decided by a Potash Audit Office, and appeal can be made from its decisions to a special Appeal Tribunal. A Wage Office investigates questions of wages and attempts to

promote the conclusion of collective agreements.

The Rhenish-Westphalian Coal Syndicate was similarly put on a new basis by the Coal Production Law of 23rd March 1919, with regulations issued in August of the same year. It is also a 'Compulsory Syndicate,' and one of its members, the Becker Steel Works A.-G., in respect of its mine the 'President,' was only brought in under compulsion, by an order of the Reich Minister for Economic Affairs. The Coal Syndicate, which in 1919 included ninety-three coal-mining companies, among them eighteen mines belonging to smelting companies, now has fifty-six members. It submits prices to be fixed to the Reich Coal Association, which unites all the coal cartels in the territory of the Reich, grouped in eleven districts, and which has also to approve general conditions of trading. Above it there is the Reich Coal Council, which, in the words of §§47-9 of the law, 'directs the whole production and distribution of fuel on uniform principles under the final supervision of the Reich' and in particular 'lays down general principles for the elimination of irrational competition and the protection of the consumer.' Originally it was only the Reich Coal Association which had any power to fix prices; but since 1920 the main committee of the Reich Coal Council, consisting of six mineowners and six workers with nine representatives of the consumers and the coal merchants, shares the responsibility for price-fixing. The Reich Minister for Economic Affairs may delay the execution of any decision taken by the officials of the syndicate, on the ground that it endangers the public interest.

The Coal Syndicate, which had transferred its offices to Hamburg at the beginning of 1923 owing to the invasion of the Ruhr, returning to Essen at the beginning of 1924, expired at the end of 1924, and was renewed for one year, once again only after strong pressure exerted by the Government. Its reorganization was brought about by the same means in the following year, in this case for five years. The syndicate is now called 'Ruhrkohle A.-G.' It is interesting to note that the Board of Directors of the Rhenish-Westphalian Coal Syndicate now invariably includes a representative of the workers, while its Supervisory Board has to include two representatives of the manual and one of the salaried workers. This also is a sign that the syndicate is no longer an organization run in the sole interest of the employers.

In a number of other industries cartels were compulsorily prolonged during the

War, e.g., in the yeast industry. This compulsory syndicate in the yeast industry was once more prolonged in 1920, on the demand of the bakeries.

A regular compulsory syndicate on the model of the Potash Syndicate was formed during the War in an industry which had never had any experience of syndication, the *dried vegetable* industry; this was however formed under war conditions and under the direction of the War Food Department. The manufacturers of dried vegetables within the associations were allotted quotas by the syndicate with the assistance of a Reich Commissioner, who also took part in the fixing of maximum prices. The syndicate was also to have an import monopoly for dried vegetables. In other cases, e.g., in the leather and soap industries, attempts were made to form compulsory syndicates, but they were unsuccessful.

The penetration of the State into the cement industry during the War is also interesting. A Federal Council Ordinance of 29th June 1916 imposed restrictive conditions on the conclusion of contracts for the delivery of cement, but its most important provision was prohibition of the erection of new works or the acquisition of old works for the manufacture of cement. To supervise its execution a Reich Cement Office was set up in Berlin. The purpose of this step was to put a stop to the further over-capitalization of this industry which would result from the erection of any new cement works, while encouraging the various German cement cartels — which were largely to blame for this state of things — to hold together. This latter aim was, in fact, achieved. Attempts were made to form a general German cement cartel, but these have hitherto only resulted in a loose ‘Cement Federation,’ which does include all the German cement works. Public regulation of this industry was only discontinued in 1923.

It may, generally speaking, be stated that many industries were decidedly favourable to this compulsory cartellization since the rationing and quotas as applied to production, raw-material supplies and markets invariably made agreement and co-operation easier for the future. This is, however, the danger-point in the whole development, and it can only be overcome by the State giving to the consumers certain rights in these organizations and an adequate chance of compressing their needs in them. This has taken place in all directions since the Revolution. In this respect and in the admission of workers’ representatives into discussion of all

questions of price-fixing and of organization must without any doubt be found progress along the path of economic prosperity

Another case where there may be good ground for compulsory cartellization is where the State is anxious to prevent the excessive predominance of a foreign concern in one industry. This led to State assistance in organizing the German match industry in 1926 and 1927, after the Swedish Match Trust, of which we shall speak in detail below, had already got some 70 per cent of the German producers under its control. In 1926, with the assistance of the Government, an agreement was reached between the remaining German match manufacturers. The Match Selling Company, Ltd., was founded in Berlin with a share capital of 1,000,000 marks, the two groups participating in it equally, with shares of 50 per cent each. The participation in the German market, however, was fixed at 65 per cent for the Swedish and 35 per cent for the German group. The Match Selling Company has a monopoly, the Cooperative Wholesale Society alone having the right to supply the co-operative societies with its own manufacture to an unlimited extent. Prices are fixed by the Supervisory Board of the Match Selling Company, but the Government reserves to itself a controlling influence in price-policy, and it is interesting to note that the German share in the Match Selling Company has been largely taken over by the Reich Credit Company.

This was not a completely compulsory cartel, and in fact some few outsiders did spring up after its formation. The fierce competition from Russia and the great financial needs of the Reich subsequently led, in the autumn of 1929, to the setting up of a State Match Monopoly, in connexion with the Swedish Trust.

All compulsory cartels are characterized by the fact that they have an *absolute* monopoly, that they include *all* producers of a given kind, though this does not of course prevent new firms being started. All compulsory cartels require a large measure of supervision of their price-policy, which generally takes the form of the State participating in their decisions.

Corporations at public law, established by the State with powers of regulating a particular industry, primarily its prices but sometimes its wages too, are not compulsory cartels. Where these corporations have to do with marketing conditions, they invariably include representatives of the various classes of consumers, and

representatives of the State, generally also representatives of the workers. Such corporations are nothing more or less than the Price Commissions which have so long been in demand for the regulation of industry; they were first formed in the War, and still prevail above all in coal-mining.

During the War there was a real necessity for such drastic interference, either in order to prevent uneconomic competition or to induce the firms working through their own organizations to fulfil important national duties. But, generally speaking, it is hard to reconcile compulsory syndication and the organization of whole industries by the State with the principles of the present economic system, the system which will presumably be maintained for some time yet. One objection to such methods is that every compulsory monopoly, with the exception of patent monopolies which are limited in time, imperatively requires State regulation of its *price-policy*, and this is a field in which the State, as war-time experience showed, should only intervene in case of emergency. Experience, e.g. with the coal, potash and nitrate industries, showed that the State always fixes the price in the interest of the *weakest* producers, with a view to keeping these just in business — it often owns weak firms itself — and this enables the owners of firms which work under more favourable conditions to make high profits. Under open competition the latter would be put out of business and prices reduced much more quickly. Taxation of this difference in return or profit is for the present still an unsolved problem.

If private monopolies spring up and interfere in price-formation, the State should certainly not leave them unregulated. It must keep an ever-watchful eye on all monopolized branches of trade. In normal times, however, the State has no cause by its own deliberate action to put private firms in a position of monopoly, thus excluding competition which is the regulating principle of an economic system based on desire for profit. Even compulsory cartellization does not make the starting of new firms impossible; on the contrary, as we saw with the Potash Syndicate, the tendency to the formation of new companies is then particularly strong. But the over-capitalization resulting from this tendency is one of the most undesirable results of compulsory cartellization, from the point of view of the national economy. It often results in the State having for a time to forbid the starting of new enterprises. In other words, *one* interference in the economic system leads to another, and the State even

so has to admit in the end that it cannot dispense with the free play of forces, that it does not know even what are the most elementary principles on which general planned economy should be based. Prices resulting from the open market cannot so easily be replaced by State price-fixing, in the same way as the State Labour Arbitration Courts only attempt to find a compromise between the interests of the opposing parties and not to secure a 'just' price or a 'just' wage.

We should also have a kind of compulsory cartellization if the idea which has been so often discussed were put into practice, according to which advantage should be taken of the enhanced profit-earning capacity of many branches of trade resulting from the formation of cartels, or at any rate the centralized organization of a trade for taxation purposes. This idea deserves more than a summary dismissal. In the first case it is a question of direct taxation, in the second of a convenient method of imposing indirect taxation. In both cases the advantage in making use of the cartels lies mainly in their ability to redistribute burdens in accordance with their members' capacity to pay. The Reparations Taxes, which were formerly frequent and have now mostly been given up, would be revived in a new form, and there can be no doubt that the intimate association of the firms in a whole industry within a cartel provides particularly good machinery for distributing burdens according to the real capacity of members. The tax would be a kind of Reich Turnover tax on cartellized industries. It would be naturally impossible to entrust the collection of taxes to any loose cartel which might shortly dissolve, leaving the tax in the air. The tax is only conceivable for cartels under State supervision, i.e., compulsory cartels, in carefully chosen industries. In this case the State would not be able to avoid exerting an influence on price.

Owing to the possibility of passing it on, such a tax must invariably result in increasing the burden of the consumers, i.e. in their indirect taxation. And thus, as a means for securing a more satisfactory taxation of consumption, the idea of imposing taxation on the cartels in the first instance and eventually of forming compulsory cartels for taxation purposes would certainly be far easier of realization than any other. It is extremely probable that both the luxury taxes and the turnover tax, if levied by way of compulsory cartels, would produce a far higher yield than they do now.

It has also been proposed to make use of economic organizations for taxation purposes in connexion with the professional societies entrusted with the management of the Accident Insurance, but these proposals have not led to any practical result so far.

In the last few years many other steps have been taken by the State to encourage the formation of cartels. For instance, the State Railway Company, finding the manufacturers of rolling-stock in a bad way, encouraged their combination and also took other steps towards the rationalization of the industry, fixing the quotas for the individual works. The Reich Government gave its unofficial assistance in the formation of the International Steel Ingot Syndicate and the conclusion of the various home and foreign agreements connected with it. The Reich Finance Ministry assisted in the formation of a conditions-agreement in the cigarette industry.

In other countries, too, measures for the encouragement of the cartels have been fairly frequent in recent times. In 1895 the Russian government compulsorily kept the sugar cartel together, after combating the excessive prices fixed by it in the way previously described. In Roumania the oil industry was compulsorily cartellized even before the War, and recently the spirits industry has also been compulsorily organized into a cartel. The same was done in 1900 by Italy with the Sicilian sulphur industry, and recently also with the Carrara marble industry, where a single selling society for raw marble has been established.

In Hungary the match producers were compulsorily formed into a cartel, in Poland the coalowners. Above all, in Spain, since the beginning of the late dictatorship, the encouragement of industry has proceeded by means of State cartels, or cartels formed with State assistance. Professor Grau informs me that this has taken place in the coal, lead, resin, timber, rice, nitrate, soap, paper and cotton industries.

Such measures are generally the consequence of the bad condition of a particular industry, and as the examples just given show, they are mostly employed in countries in which monopolistic combines have hitherto been unimportant, and in trades in which capitalistic concentration has not gone very far.

The tendency towards compulsory organization of industry springs in part from socialistic ideals, since the socialists welcome anything which has the appearance of planned economy, and are quite willing to make use of capitalistic forms of

organization to this end, as the syndicates and trusts of Soviet Russia show. The expressions 'Socialism' and 'Socialization' have thus become extended to cover all sorts of organizations regulated by the State, in which, however, there is no question of the abolition of private property. Thus it is common to speak of the socialization of the potash and coal syndicates and of electricity supply, which were undertaken after the Revolution and were intended to be a concession to the socialistic ideals of the working class which had just come into power. The laws of that period, however, only betoken progress along the path of compulsory syndication which, as we have seen, began before the War. We have already spoken of the 'socialization' of the coal and potash syndicates and of the regulation of the iron and steel industry. It is not really socialization. The law for the socialization of electricity supply which was finally passed on 31st December 1919 as a compromise between various widely differing projects does certainly go further, and aims at bringing the supply and distribution of current into the full ownership and management of the Reich, with a considerable degree of participation of the States, especially in the field of *generation*. For a long time so-called *mixed undertakings* had played a large part in this field; these were joint-stock companies raising their capital jointly from private persons and from public bodies, and, whether directed by public servants or by private persons, gave public bodies a large degree of influence on policy and of participation in their profits.

Apart from exceptional cases, the compulsory organization of groups of private interests by the public is, as a general rule, as little to be recommended as an excessive extension of public undertakings. The State has the power to interfere in the economic struggle, encouraging here and discouraging there, and so promoting a social balance of forces, but it itself should participate as little as possible in economic life, since its participation involves its taking sides. There can be no doubt that ever-larger sections of the Socialist party, realizing their incapacity to invent a new economic order, are now attempting by political means, i.e., through State assistance to industry, to influence the various capitalistic organizations and manage them so as to further their own ideals. In doing so they identify the interests of the working class with the public interest or the common weal as unhesitatingly as other economic groups used sometimes to do in former times. In this they are supported,

it is true, by the legal and political machinery, which, as we saw in the Cartel Ordinance, is apt to draw attention to the public interest or the common weal where what is really at issue are the interests of smaller or larger groups, very difficult to weigh against one another. They also receive support from scientific political economy, many of whose representatives are excessively prone to pronounce assessments of this kind. The resulting mixture of economics and politics, which keeps on attributing new tasks to the State, is a good deal to blame for the lack of patriotism so generally deplored in Germany and for generally admitted stagnation or even degradation of our political life; it has also had disastrous effects on our foreign policy. The State as the great defender of justice and welfare ought to stand above the economic system and work for social equilibrium within this system. If it is too much drawn into the war of interests, and has economic interests of its own all over the place, it loses its authority and becomes less and less capable of effecting the impartial regulation of economic life.

Part V: Concerns And Amalgamations.

Chapter XXVII: General View of the Various Forms of Concern Organization.

The forms of association which we are now to treat, Concerns and Amalgamations, belong to quite a different class of organization from that of the cartels. If unions, associations, cartels and co-operatives grouped together under the one head of *Mutual Aid Associations* (the extremely vague term 'association' or 'union,' as we might also call it, tells us very little about their form, though the term '*mutual aid*' does tell us something about their purpose), then the concerns may be contrasted with them as financial, operating, or administrative unions; these terms denning more or less clearly the purposes pursued in the formation of concerns. A concern might likewise be defined as a 'merger of firms which remain juridically independent of one another into a single unit for the purposes of productive technique, administration, trading, or (especially) finance.'

In this connexion financial mergers, which after all are a necessary consequence of technical or commercial mergers, play the most important part. It may be said that a concern is a *financial unit* in the sense that it pursues a unitary financial policy; I should, however, hesitate to describe a concern as an '*economic unit*,' since an economic unit means one business; thus where firms are amalgamated, the single trading firm is the economic unit. In the same way I am not inclined to say with Passow that a concern is under '*unified control*,' since this is either too wide or too indefinite.⁴⁵

In firms co-ordinated into concerns, e.g., the former interest-groups in the large-

scale chemical industry, or in the Siemens-Schuckert-Rhein-Elbe-Union, the various big firms certainly had their own directorates; they merely acted together in financial and to some extent in technical and commercial matters.

The distinction of different kinds or fields of management, which in one concern need not all be in the same hands, is especially clear in the case of the purely financial concerns, for example, the various companies in the Blumenstein concern in which there was no trace of unified control either in technical or commercial matters.

With the great majority of the concerns it is the financial merger which is particularly important. We may speak of unified control or management, but only if we understand management as capable of specialization in four different directions, so that not all the four kinds of management are unified in all concerns. And even where we find in a given concern traces of all four forms of unification, still the juridical independence of the members of a concern causes them to act in their business transactions and in dealings with the outside world just as if they were independent; this is the case, e.g., in marketing, especially in export markets, in purchases of raw materials, in current dealings with the banks, taxation, etc.

Mutual Aid Associations, i.e., the unions and associations on the one hand, and the financial or administrative groups of interests on the other, differ in that the former regulate, in some respect or other, the external exchange relations of the firms involved — the cartels, being monopolistic associations, regulate these external relations for the *whole* trade. The financial, operating, or administrative groups, on the other hand, regulate above all *internal* conditions in the unified firms, establishing relations between them which have nothing to do with exchange, but aim at unifying the management in one of the four directions outlined above.

Amalgamations, i.e. the complete fusion of two undertakings to form one, do not belong to either of the two groups, neither to the mutual aid associations — the trade associations, cartels and cooperatives — nor to the financial, operating, or administrative unions which are termed concerns. Amalgamation destroys all independence, however restricted it may have been; it leaves simply single works, with perhaps technical interrelations with each other. The notion ‘concern’ is therefore inapplicable to such amalgamations, though of course an amalgamation

may act as the head of a concern. However, from an *historical*, as opposed to a *systematic* or formal point of view, amalgamation is the most important method of attaining through association certain technical, commercial or financial ends. As a means for developing big into bigger business, ordinary firms into larger unified firms, amalgamation is to-day of quite extraordinary importance.

The limiting case between the amalgamation and the concern is where firms brought within the latter transfer their whole economic activities to a single joint firm, remaining in existence simply as holding or controlling companies. This has long been true to some extent of the relations between Siemens und Halske and the Schuckert-Elektrizitätsgesellschaft and the joint Siemens-Schuckert-Werke G.m.b.H., and in recent times we have a still clearer instance in the relations between the Vereinigte Stahlwerke A.-G. and the companies which founded it. Here too the concern differs from an amalgamation in that the share capital of the producing firm is in the hands of the companies which founded it, and their influence over its policy depends on the proportion of shares which they possess in it. This difference was actually of importance, for instance, when the question whether Stahlverein shares should be introduced on the Stock Exchange or not was being mooted.

The notion of *Trust*, with which we shall deal in the final section of this book, refers to the two forms of union typified in amalgamation and concern in so far as they have *monopolistic aims*. In this part we shall only deal with the non-monopolistic concerns and amalgamations, and with the concerns first of all.

The relationship between the firms which, whether in respect of production, administration, trading or finance, are grouped into a concern, may be of two different kinds, according to the respective economic position of the grouped undertakings; so that we may distinguish between two classes of concerns, those formed of co-ordinated and those of subordinated firms. Another current distinction, which comes to much the same thing and regards the phenomena rather from the aspect of technique, classes concerns into those with a *horizontal* and those with a *vertical* structure. Evidently both relationships may occur within one concern, but between different firms. Thus, for instance, the big works of the chemical industry form a horizontal concern among themselves, but they have other undertakings subordinated to them. These subordinate undertakings may either be subordinate to

the concern as a whole, as is e.g., the nitrate works Stickstoffwerke Merseburg-Oppau G.m.b.H. (which originally belonged to the Badische Anilin und Sodafabrik alone), or merely subordinate to some firms within the group, as is the Auguste Viktoria mine, or finally subordinate to a single firm, like Kalle & Co. A.-G., which is entirely in the possession of the Höchst Dye Works.

Superordinate and subordinate companies are usually described as *parent* and *daughter companies*. In the strict sense of the words these terms should only be used in cases where the parent company founded the daughter company; but to-day 'daughter company' is commonly used to describe any subordinate or subsidiary firm.

The legal basis or the financial contract on which the different concerns are built up may vary very greatly. The following are the most important forms in descending order of importance or at least of frequency:

(i) *Participation*, and normally share participation sufficient to ensure *control*, i.e., the holding of a majority of the shares. In connexion with other forms of 'concern-formation' even a minority holding of shares may bring a firm into the concern, especially if other firms in the latter have a share interest in it. Every degree of control is possible up to complete domination based on the possession of the entire share capital. In the case of non-joint-stock firms participation through limited partnership has the same effect for purposes of concern-formation.

(ii) *Interest-groups*. These are contractual agreements between two or three or, rarely, more firms to divide up their profits in an agreed proportion, while retaining their independence. *Interest-groups* might thus just as well be counted in the class of mutual aid associations, i.e. among the associations, since a contract for pooling profits creates an association — only the latter normally has no monopolistic purpose and so is no cartel. The interest-group is, however, frequently connected with other forms of concern-formation, especially with the methods of participation and delegation of administrative personnel; so that it would probably be more correct to include them with the concerns only so far as this is the case.

We shall now pass on to describe the two other less important forms of concern structure.

(iii) The appointment of directors or supervisors of one company on to the board of directors or the supervisory board of another.

The appointment of directors and members of the supervisory board of one company on the direction or supervision of another is normally bound up with one of the other forms of concern-structure and is then often simply the effect of the intimate union of the firms showing itself in questions of personnel. But it may also be an isolated measure, and in this case it is normally the first stage and loosest forms of concern. Very frequently it occurs in connexion with and consequent on participation. Still, as with all personal relationships of this kind, a connexion formed in this way may prove to be the most efficacious of all. The appointment of directors and supervisors in industrial and trading firms is on rather a different footing from the interlocking practised between trading companies and the big banks. This is part of the scheme of banking connexions, and does not involve any concern-relationship in the strict sense of the word between the two. Directors of the big banks go into the supervisory boards of big enterprises, and conversely directors of big firms into the supervisory board of big banks. This is a normal result of banking business-connexions. Again it often happens that the directors of several big banks sit in the supervisory boards of big business firms.

When the system of interlocking directorates is pushed far, this leads to management consolidations between the companies, based on personal identity of the directors. This does not necessarily imply financial combination. To be quite correct, it would be necessary to distinguish personal association from concern-formation. Still it is not untrue to distinguish the concerns from the cartels as being normally financial or capitalistic combinations. It is true that the relations between the leading men in two companies may often be of greater importance than their financial relations, but they normally lead to financial relations being established, and these are really the essential feature of concern-formation. It is quite possible for two different firms to be owned by one and the same person, without it being possible to describe them as a 'concern,' precisely because financial interrelationship is lacking — e.g., where a banker possesses a landed estate. Concern-formation means, in fact, economic unification, mutual interdependence of parts, common administration.

(iv) Administration of the entire operating machinery of one firm or a part of its operations by another firm (possibly through the medium of a special control

company).

The administration of the works of one firm by another, especially where the whole works of the subordinate firm is so managed, represents a very intimate form of concern-structure or 'interlocked enterprise.' This form is invariably adopted either in connexion with the leasehold arrangement, or else it implies agreements for the sharing-out of profits, i.e., forms an interest-group and is simply linking of that form with an operating or administrative combination. We find the chemical factory Griesheim-Elektron for many years managing all the various works of Elektrochemische Werke, G.m.b.H. This may be regarded as the limiting form of administrative union in which the concern-structure fades insensibly into what is in practice one single unified firm. We find this with branch works which to the outside world have the appearance of independence (usually private companies — G.m.b.H.), but in reality are never intended to be anything more than branches, in their whole financial, technical and commercial management. To decide whether these works are really independent in an economic sense or whether they are mere branches, is often an important question for the taxation authorities.

(v) The fifth form of concern-structure also consists in centralized administration, but this is in connexion with the *leasing* of the whole works or part of the works of one firm to another, often through the medium of a special company. The leasing of certain works of one enterprise to another occurs, however, without this involving the formation of a concern. Thus, for instance, coal seams on the property of one coal mine have frequently been leased to another whose shafts are more conveniently placed for the extraction of the coal. The leasing of spinning mills and of dyeworks by weaving companies, or of malthouses by breweries, is also not uncommon. Thus here again the mere existence of a lease contract is not a criterion for the existence of a concern.

In recent times, however, leaseholding has become a common way of forming concerns in Germany, as formerly in America, the taxation advantages gained by this structure often favouring its adoption. The resultant firm is a form of combination of interests and administration. Of course only the works can be leased, not the company itself. But the leasing is in this case merely a method of linking up two or more firms, a kind of profit-participation scheme. The leasing is therefore often

bound up with dividend guarantees, and the works management with a sales management. The method is also employed to prevent other groups from getting actual ownership of the tangible assets of a firm.

In all forms of concern-formation, with the obvious exception of the merely personal form consequent on interlocking directorships and supervisorships, joint companies may be set up, in various forms and for various purposes. Generally a 'central council' is appointed, usually with the same powers as the board of directors of a normal (German) company, i.e., with the right of frequently demanding information from the directors of the various companies, of inspecting books, and of testing accounts. If one company stands at the head of the concern, it is normally given a special position in the central council. Frequently a special company is formed to carry on the business of the concern; its duties vary from case to case. These companies are nowadays frequently termed '*holding companies*' (Dachgesellschaften = lit. Roof companies). They are not the same as 'controlling' companies, but should rather be described as administrative companies. Their purpose is to administer the concern, and they therefore usually have only a very small capital. Examples of such companies are the Siemens-Schuckert-Rhein-Elbe-Union G.m.b.H. before mentioned, with its capital of 517,000 marks, or the G.m.b.H. of the Schultheiss-Kahlbaum-Ostwerke-Konzern. The 'Stumm-Konzern' is also held together by a private company with this title.

The duties of the Adastra-Verwaltungs-G.m.b.H. of Hamburg, the holding company of the dynamite and gunpowder concern, with its 300,000 marks capital, go somewhat further. It carries out not merely financial calculations bearing on the group of companies in the concern, but also controls the special voting shares issued by the companies, with a view to preventing 'the domination of foreign capital.'

Still greater are the powers of the company administering the great Bing concern in the metal industry, where the Concentra G.m.b.H. also undertakes marketing for the many companies united in the concern. This is even more the case with the Concernos Vertriebsgesellschaft chemischer Produkte m.b.H. in Berlin, or the Selling Company of the 'glue trust,' or the A.G. für chemische Produkte vorm. H. Scheidemandel. The economic powers of holding companies may thus vary considerably. They are even employed as managing companies for single firms. The

American plan of forming companies to carry on each of the various exchange operations within a single firm is nowadays largely imitated in Germany, and leads to many obscurities in the legal position of these companies owing to unfamiliarity with this kind of contract. The term '*holding companies*' should be confined to companies intended to conduct the actual administration of a concern.

On the distinction of concerns from other forms of business organization it may be remarked that any sharp line of distinction which might be drawn for juristic purposes would not quite coincide with the economic line of distinction. It would be, generally speaking, true to say that the contracts and constitution of the mutual aid associations (cartels, etc.) are based on obligatory or personal, those of the concerns on *de facto* agreements or legal documents. On the basis of this distinction mere interest-groups and the mere interlocking of directorships and supervisorships without further connexion could not be regarded as concerns; and as we have said above, there is something to be said for this standpoint. To take our stand upon this distinction comes to much the same thing in the end as saying that the true mark of concerns is a degree of financial union.

No concern-formation is involved in agreements between independent firms to utilize the labour of other firms for payment, or in contracts to work up or improve the products of another firm, or long-period contracts for supply of raw materials or for the marketing of products.

Agreements for the use of patents and licensing contracts in general, one-sided or reciprocal contracts for one firm to sell the products of another, and the like, are all of them *associations*, contracts which regulate or restrict the economic activities of one of the contracting parties at a particular point, but they are not concerns since there is no trace of any unified direction involved.

A near relative of the concern is the *consortium*. It is however not a concern but a form of company, a temporary company, a single firm. It is not a kind of mutual aid association or co-operative, but a corporation, though existing only for a certain definite and temporary purpose, to put through one single piece of business. This holds good even where, as with the company promotion con-sortia, the same members come together again and again for the same kind of business, i.e. the business of issuing stock.

Finally, to prevent misunderstanding, it should here be emphasized that concerns by no means always arise from the grouping of hitherto independent firms, i.e., are not always the result of the tendency towards concentration. They are often employed to decentralize the various activities of one firm, to break it up into a number of externally independent but internally allied firms.

Chapter XXVIII: The Interest-Group. (Interessengemeinschaften).

In recent times the interest-groups have enjoyed especial consideration as a substitute for the cartels or as a means of effecting more intimate union between certain firms within a cartel. They are, as has been said, contractual engagements between two or three, rarely more, firms to share their profits while remaining independent. Thus the interest-group is an extremely near relative of the profit-distributing cartel; or in other words, the interest-group becomes a cartel if it comes to include the whole trade, or aims at obtaining a monopolistic position in the trade. This was actually the case with the oldest German interest-groups, for instance the interest-group of the gunpowder industry, or of that subsequently built up on contracts between the gunpowder group and the dynamite group. The fixing of particular prices or other similar obligations undertaken in addition to profit-sharing evidently give to the interest-group the character of a cartel. But most interest-groups are confined to quite a few firms and have no monopolistic aims.

In the early eighties an interest-group was formed between two Württemberg banks for fifty years, which provided for 'the exclusion of all competition between the banks, a common policy in external relations with individual responsibility, the maintenance of complete independence, and the sharing of profits and losses in proportion to share capital.' In the eighties we also have the 'cartel contract' between the members of the Gunpowder group — Ver. Köln-Rottweiler Pulverfabriken, Kramer und Buchholz, Wolf und Co. — and the 'general cartel' between this group

and the 'explosives group' united in the Nobel Dynamite Trust. The former group got 40 per cent, the latter 60 per cent of the pooled profits. There followed during the nineties the formation of interest-groups between three firms making photographic papers; between two electrochemical works with leasing and works management by the one of them, this arrangement being terminated by their amalgamation in 1921; and — quite a temporary arrangement — between the A.E.G. (General Electric Company) and A.-G. Ludwig Löwe & Co.

The first interest-group of real importance was formed after the crisis of 1900, the agreement concluded in 1902 for twenty years between the Hamburg-Amerika and North German Lloyd companies on the one hand, and the International Mercantile Marine Company, the trust formed by Morgans out of nine American and British shipping companies, on the other. This agreement was primarily a territorial cartel, but also an interest-group in that the German companies were to pay the Americans yearly one-quarter of the sum paid in dividend in excess of 6 per cent, and to receive from the Trust a quarter of any sum which was lacking to make up a dividend of 6 per cent. In consequence, the Hamburg-Amerika line paid the trust several millions and then retired from the agreement in 1912; other provisions of the agreement came to an end automatically with the outbreak of War.

Even greater attention however was aroused by the constitution on 1st January 1904 of an interest-group for thirty years consisting of the Dresdner Bank and the Schaaffhausen Bankverein and providing for the pooling of yearly profits and their distribution in proportion to the share capital plus reserve funds of the two banks. In connexion with this, five directors or supervisors of each company were to join the board of the other. The purpose for which this interest-group was formed was to prevent the one bank pushing its branches into the principal territory of the other. It was also desired to strengthen the capital power and influence of each of the banks by means of common action in big business deals, as well as their competitive power as against their two big rivals the Deutsche Bank and the Diskontogesellschaft. The original plan for a complete amalgamation proved impossible for personal reasons, and these played a large part in the dissolution of the interest-group, which occurred five years later. The Schaaffhausen Bankverein was later fused with the Diskontogesellschaft, the latter taking over its entire capital.

In October 1904 the foundation was laid of the interest-group which till a short while ago was the most important in Germany — the interest-group in the large-scale chemical industry. The Höchst Dyeworks, formerly Meister, Lucius and Brüning, contracted for an exchange of capital with the firm of Leopold Cassella & Co. G.m.b.H., which was to this end turned into a public limited liability company with 10,000,000 marks capital and 10,000,000 marks debentures (the same amount of capital as the Höchst Works had at the time). The purpose of this interest-grouping was for the firms to supplement each other in many branches of the trade and exclude competition between them in others.

A month later the second big interest-group in the chemical industry was formed, between the Badische Anilin und Sodafabrik and the Elberfelder Farbenfabrik vorm. Fr. Bayer & Co. These agreed on a profit-sharing scheme without any exchange of shares. A few weeks later the Berliner A.-G. für Anilinfabrikation was brought into this interest-group, constituted for fifty years, the two first-mentioned companies receiving 43 per cent and the latter 14 per cent of the pooled profits.

In the same year another important interest-group was formed consisting of the Gelsenkirchen Mining Company, the Aachen Smelting Works 'Rote Erde,' and the Schalk Mining and Smelting Company. The former was to get 73.5 parts, the two latter 31 and 25.5 parts of the pooled net profit. As however the Gelsenkirchen Mining Company offered the shareholders of the other two companies the right of exchanging their shares for shares in the Gelsenkirchen Company, this transaction being completed by raising the total share capital to 55,000,000 marks, the profit-sharing agreement became somewhat superfluous. The interest-group was the forerunner of a complete fusion, which came about in 1907. The Gelsenkirchen Mining Company subsequently formed interest-groups with the Düsseldorf Tube Works and others.

In the subsequent years interest-groups were becoming more and more common. That formed between the Stettin Schamottefabrik vorm. Didier and the Berlin-Anhaltischen Maschinenbau A.-G. in 1906 is interesting as a specimen of an interest-group between two quite different classes of firm. The reason for its formation was that both companies worked together in the construction of gas works. They also founded a Gas Works Construction Company (G.m.b.H.) in common, jointly

guaranteeing the debentures issued by it. The interest-group was however dissolved again a few years later. An interest-grouping of three crane factories in which the two above-mentioned participated once more led after some years to a complete fusion, the Deutsche Maschinenfabrik A.-G. of Duisburg.

In the subsequent years many interest-groups were formed : in banking, between the Rheinische Kreditbank and the Pfälzische Bank; in the iron and steel industry, especially in wire, light-railway construction, etc., in the spirit industry, in brewing and in other trades.

During the War came an important development of the two big interest-groups in the chemical industry; in 1916 these two were successfully combined into one. Even before this, the Badische Anilin und Sodafabrik had had a cartel agreement with Höchst fixing the price of artificial indigo, and there were also numerous other cartel contracts between the various factories for their various other products. Then in order jointly to carry on the expected violent competitive struggle with foreign chemical industries, strengthened as these were especially by the theft of German patents, it was decided to form a big new interest-group, with the inclusion of the Chemische Fabrik Griesheim-Elektron and the Chemische Fabrik Weiler-ter-Meer A.-G. of Urdingen, which were primarily concerned with the earlier stages of production but also manufactured aniline. In this interest-group the three big works were to get about 25 per cent of the pooled profits, Cassella and Co. some 10 per cent, and the Berlin Company rather more than 8 per cent. A remarkable feature of the agreement was the reckoning of the capital of the three big works at the same figure, 90,000,000 marks each. The big nitrate works at Leuna and Oppau, which both originally belonged to the Badische Anilin und Sodafabrik alone and required tremendously heavy capitalization, were thereupon transferred to the group, a special holding G.m.b.H. being founded to take them over. 'Here,' I wrote in previous editions, 'the interest-group, in connexion with the many price-cartels existing between the firms inside and outside for its various products, is obviously being employed as a substitute for a trust.' The trust has since been formed.

Rivalling the great chemical interest-group in importance and in the capital power of its associated undertakings, the Siemens-Rhein-Elbe-Schuckert-Union G.m.b.H. was founded in 1920 under the leadership of Hugo Stinnes. This arose out of a

smaller interest-group formed in 1919 between the Gelsenkirchener Bergwerksgesellschaft, which had lost its blast furnaces and iron mines in Lorraine through the Peace Treaty, and the Deutsch-Luxemburgische Bergwerksgesellschaft. They together founded a 'holding' company called the 'Rhein-Elbe-Union G.m.b.H.,' with 300,000 marks capital, which in fact had the supreme direction of the two companies and was to exclude all considerations of divergent interests. A 'central council' drew up plans for the extension of the two concerns, for the satisfaction of their financial requirements, the form in which their balance sheets were to be prepared, etc. This interest-grouping, entered into for eighty years, went further than any other contract of this kind; it expressly aimed at managing the two firms as if they were one, while leaving them independent as far as legal status went. The Bochumer Verein für Bergbau und Gusstahl-fabrikation was then brought into the group, through the two works jointly acquiring more than the half of its capital. The participation in profits was to be in the ratio of 13:13:7. The Bochumer Verein was guaranteed however a certain excess of dividends over those of the other companies.

This Rhein-Elbe-Union was now extended by Stinnes to form the Siemens-Rhein-Elbe-Schuckert-Union G.m.b.H. with 517,000 marks of original capital, by bringing in the big Siemens-Schuckert concern. This union of a big mining concern, which was mainly occupied in producing raw materials and semi-manufactures and was in any case confined to the iron and steel industry, with the second biggest concern in the electrotechnical industry — essentially a finishing industry — caused the greatest excitement. The principal aims pursued were given out to be the securing of a market for raw materials and the provision of supplies of raw materials as well as the financial strengthening of the two concerns. In actual fact, however, personal motives, an appetite for expansion, a desire to find profitable investment for free capital, were at the bottom of the transaction, and, above all, the motive of making the socialization of the iron and steel industry difficult through the greatest possible mixing up of works of different kinds and the entangling of raw-material production with finishing industry. It is in my opinion a mistake to see in this conglomeration some new and particularly promising form of organization, the 'vertical trust.'

Among the numerous groups of interests formed during the next few years we shall

mention only two of the most important, and first that of the South German sugar factories. An interest-grouping of two of the biggest, those of Frankenthal and Waghausel, developed into a concern which included also the factories in Heilbronn, Stuttgart and Offstein. After the two latter had incorporated by amalgamation the factories of Gross-Gerau and Gross-Umstadt, all the South German sugar factories found themselves in one interest-group. Here too, as in most other cases, the interest-group was only the forerunner of complete amalgamation, which took place in 1926. The same was the case with the 'Bank Union' of the Darmstädter Bank and the National Bank, and with many other interest-groups.

There is a still more extensive interest-group in the beer and spirits industries. Two of the biggest spirits distilleries, — which, under the influence of the Spirits Bureau, were generally making enormous profits in the decade before the War, — the Breslauer Spritfabrik A.-G. and the C.A.F. Kahlbaum A.-G., the latter having already incorporated the Bank für Spiritus- und Produktenhandel, decided to form an interest-group, in which five-ninths of the pooled profits were to go to Breslau and four-ninths to Kahlbaum. After all the distilleries had passed into the hands of the spirit monopoly, both firms began to participate largely in other branches of business, chemicals, yeast, glass, and agricultural machines. The Breslauer Spritfabrik had meanwhile changed its name to Ostwerke A.-G. Then in 1921 this group formed a further grouping with the largest German brewery firm, itself a product of fusion, which now manufactures one-tenth of the whole German beer supply. The profits were distributed on the basis of 30 per cent going to the brewery, and 70 per cent to the spirit concern, of which the Ostwerke got 38.89 per cent and Kahlbaum 31.11 per cent. The desire to broaden the basis of production on the model of other big concerns (Sinner, Riickforth) and to find investment for free capital were the motives for this big grouping of interests. In this case too, as with the Siemens-Rhein-Elbe-Schuckert-Union, a co-ordinating private company (not a mere 'control company') was formed, with a capital of 1,000,000 marks and the title of 'Interest-group for the industrial utilization of agricultural products.'

Our examples show that it is indeed possible to distinguish interest-groups formed between similar and those between different classes of firms, but that the favourite metaphor of horizontal and vertical unions is not always applicable, since the

different kinds of interests grouped together are by no means always successive stages of production where one depends on the other (beer — spirits; gas works, etc.). Thus in the formation of interest-groups the motive is by no means always that of excluding competition or of strengthening one's position in the competitive struggle, as it is with combinations; in the tremendous convulsions produced by war-economy and the results of the Peace Treaty, it was often simply a question of finding new fields of activity, employing existing works for new purposes, finding suitable investment for free capital. In every single case there were also technical advantages in production or marketing to be gained by the interest-group, which it is impossible to go into here, and further, as has been stated, strong personal or social, and even political motives.

The formation of interest-groups was particularly favoured in the first few years after the War, when firms had not yet learned to fear artificial conglomerations and complications of organization. But the opinion I expressed long ago, to the effect that this is a form of organization suited to certain peculiar circumstances but, apart from these, of merely ephemeral duration, has been more and more markedly confirmed by the events. Most of the important interest-groups have meanwhile become purposeless owing to fusions which have taken place. Such a change alone can lead to realization of the aims which to-day are everywhere to the fore — the greatest possible cheapening of production and the greater rationalization of every detail of economic life. The interest-group is rather an artificial structure, in which there is a disproportion between the drastic nature of the contract, making the profits of the firms depend on one another, and the great degree of independence of management which the individual undertakings still retain. It is to diminish this disproportion that the interest-grouping is generally combined with interlocking directorships or supervisorships. It must however be clear that where several firms are so interlinked on a financial basis, complete fusion is generally more advantageous, especially since it is, as a rule, only fusion which can bring about any economy in costs. An interest-group is only in place where there are few firms of more or less equal strength, and fusion, usually for personal reasons, is not, or at any rate not yet, practicable. There are however a number of other cases where complete fusion does not seem desirable, where, on the contrary, efforts are being made to establish firms

Robert Liefmann, *Cartels, Concerns and Trusts*, 293

externally independent of, though standing in close relations with, one another. But the most valuable means to achieve this result is by means of *participation*.

Chapter XXIX: Financial Participation and Daughter Companies.

The means most generally employed of bringing a number of firms into closer relationship with each other is that of *participation* through the acquisition of stock or other forms of shareholding. Where the joint-stock system is extremely widespread, and especially where a few individual capitalists commonly exercise financial power over many firms, as in America, the principle of participation is the simplest and most convenient way of bringing about closer relations. It is however extremely common in Germany too, so that to-day there are few joint-stock companies which do not hold shares in some other company.

The aims pursued in participation may differ considerably, as is shown by its extent in each case. One firm participates to a small extent in another often simply with a view to knowing what is going on in the other company, to sharing in its profits, to assisting at its general meeting, etc. A larger degree of participation aims at getting influence over the company, smoothing the path for intimate business dealings, getting a seat on its board and the like. Influence becomes complete through the acquisition of the majority or even the whole of the shares, thus leading to *control*. In this case participation is simply a substitute for complete fusion. The latter is often shunned because the costs of effecting it are extremely high. In addition, participation has the advantage that the participating firm shares in the profits without being responsible for the debts of the other; also the connexion can be broken off at any time. Thus firms that are expanding and thinking of opening out

a new line of business, often prefer, especially where they do not feel confident of success, to start a new company of their own, either in the form of public or private company (A.-G. or G.m.b.H.). A very large proportion of the participations to be found in our present economic structure owe their existence to some such circumstances as these.

From a consideration of the kind of firms linked up by participation, it is possible to distinguish motives for the participation. They are as follows:

(i) Participation between firms of the same type. Here above all it is necessary to distinguish whether it is desired to establish business relations between co-ordinated or between subordinated undertakings. With co-ordinated firms the participation is often reciprocal. Reciprocal participation, in proportion to its amount, will tend more and more to produce the same effect as the profit participation of the interest-groups. However, reciprocal participation and interest-grouping may be combined, as was the case formerly with Höchst Dyeworks and the firm of Cassella and Co.

Participations between firms of the same kind may, of course, also occur where there are subordinate enterprises, e.g., where a large firm owns branches with the status of independent firms in other places, or otherwise participates in smaller firms of the same kind. This is very frequently merely a preliminary stage of fusion; still fusion is often avoided, and the small firms left as daughter companies. The commonest case of this is that of branch companies abroad, established according to the provisions of foreign law. But even within the country there may be special reasons for avoiding a fusion, e.g., in the case of the Diskontogesellschaft and the Schaaffhausen Bankverein, where the whole capital of the latter was in the possession of the former, thus preserving a condition of external independence until 1929, on account of its old name and its old established connexion in the Rheinland.

(ii) Participation between interdependent firms, i.e., where one delivers raw material to or finishes off the product of the other; and in general where two firms both work on the production of the same finished product and so come to have largely the same interests. Here too it is necessary to distinguish the type in which the firms are co-ordinated from that in which they are subordinated. In the former case participation is usually simply a looser form of interest-grouping and often in combination with it, since participation here arises out of some common interest,

whether this comes of the one being interested in the supply of raw materials to the other, or of the one having to concede participation to the other in consideration of some service rendered — often simply because it cannot pay cash for its supplies. Such participation does not of course necessarily involve the formation of a concern.

Examples of this class are to be found in the participation of spinning firms in weaving firms and vice versa, or of smelting works in coal-mining firms and vice versa. This is also a specially favourite method by which wholesale trade tries to force its way into production. Large iron and steel merchants, for instance, acquire shares of mines or smelting works and finally manage to get them under their control, thus giving rise to a concern named after the controlling commercial firm, or at least one in which the commercial firm plays the principal part. This was, for instance, the case with the Otto-Wolff-Phönix Concern, the Sichel Concern, the expansion of the Brothers Blumenstein into the textile industry, the cotton dealer Simon's relations with the producers, and many others.

(iii) A further kind of participation is that of the banks in companies floated by them. This is connected with the development of company promotion in Germany before the War. The big banks frequently undertook the flotation of companies, whose shares they would not be able to pass on to the public for a very considerable time, e.g., companies, especially mining companies, in foreign countries, or others requiring a long time for their development such as mining enterprises (potash and oil), railways, or real estate companies. Although responsibly managed banks ought to invest only a part at the most of their own capital and never depositors' money in such enterprises as these, still they came to play a very large part in the investments of many banks — particularly investments in the oil industry. Here it is only appropriate to speak of concern-formation if the banks permanently retain control over such firms. When these participations became very extensive, the banks generally set up finance companies (e.g. the Deutsche Petroleum A.-G.) as a buffer between themselves and the enterprise in question. After the War their own lack of capital led the banks to limit their direct and indirect participations as far as possible.

(iv) The fourth and most important kind of participation is that already mentioned above, the participation of firms in companies which they themselves have floated, daughter companies. This is to be regarded as a generalization of Case iii. To-day it

is no longer the banks alone that float new companies; many other firms prefer, for the reasons given above and primarily with a view to limiting their risks, to found new companies of their own for each new extension of their activities. These may of course be all in the same line of business, but generally they are in lines which are dependent on one another. The exploitation of new inventions especially is to-day generally carried out through the setting up of new companies, often in the first instance as experimental companies merely, and generally with the legal form of the private company (G.m.b.H.). They are normally financed entirely by the parent company, i.e., by some large-scale productive enterprise, often with co-operation of the banks. Recently the establishment of special trading companies as daughter companies has also become very common, and there are also joint daughter companies. In all cases this arrangement secures, in addition to the limitation of risk, that the works management of the new companies is entirely separated from that of the parent company. The directors of the latter in their books and balance-sheets merely have to report on their share participation in the new company and its results (in addition they often make large extensions of credit to it), but in other respects are quite independent of their own shareholders in respect of their management of it.

In treating of daughter companies, it is above all important to distinguish those concerned in production from those formed for trading purposes. The setting up of selling companies to trade the products of a productive firm is a practice which is extraordinarily prevalent at the present time. In the export trade, it may be said to be the universal practice for big firms which do not trade their products through some firm in the foreign country but have agencies and sales bureaus of their own, to constitute these as independent companies. Even before the War the big electrotechnical manufacturers had trading companies of this kind in the most varied countries, and these frequently also undertook electrical installation. Since the War this practice has become very common indeed. The big iron and steel works, for instance, now have trading companies of their own in all the different countries, and so have the big chemical factories.

The establishment of daughter companies for production, both at home and abroad, was first developed in two particular industries, the electrotechnical and the building industries. The tremendous development of electrical engineering led to the big

electrotechnical factories, while still carrying on the work in their own factories, becoming more and more involved in so-called producers' trading; i.e., they no longer erected light and power stations simply in fulfilment of contract but more and more on their own account; and in most cases these were constituted as independent companies. Since however it was not generally possible to dispose of their shares to the general public, or at least not for some time, we get the result that all the big manufacturing companies in the electrical industry at the present day have heavy participations in daughter companies of this kind. The same holds good of the big railway-building firms, which have mostly thrown themselves into the construction of light railways both at home and abroad. These too were generally formed into companies in which the building firm remained a large shareholder. Further, the necessity for many branches of manufacture to establish branches in foreign countries frequently led to the foundation of daughter companies, with the German parent companies participating in them. For instance, the tariff laws in America and the patent laws in Great Britain frequently compelled the erection of factories abroad, and these in many cases attained such proportions as to dwarf their parent.

With many firms the establishment of daughter companies has gone so far that they have given up all or almost all production of their own, and carry on production entirely through daughter companies in which they are participators. Where this has happened, firms become to a greater or lesser degree simple participation companies, and since they normally hold the greater part of the share capital of their daughter companies, they may be considered as holding companies or control companies. As examples of this phenomenon the case of Siemens und Halske may be cited, and now above all that of the Gelsenkirchener Bergwerksgesellschaft, the Deutsch-Luxemburgische Bergwerksgesellschaft, and the Bochumer Gussstahlverein, the two latter having handed over the whole, and the former far the greater part, of their capital and assets to the Vereinigte Stahlwerke A.-G. Siemens und Halske A.-G. has transferred to the Siemens-Schuckert-Werke G.m.b.H. their whole manufacture of heavy current electrical apparatus. And the Elektrizitätsgesellschaft vormals Schuckert has entirely given up manufacture of its own, and invested its whole capital of 70,000,000 marks — with the exception of one electricity works which it has retained in its own hands — entirely in participations or credits, most of these

in the Siemens-Schuckert Works.

And in electrical engineering and railway building the development has actually gone further. Companies have been formed with no other end in view than that of participating in other companies. The purpose of this participation varies from case to case. One purpose is that already mentioned, namely, the exercise of control through the so-called 'control companies.' Such companies stand at the head of concerns built up on the principle of participation, and their limiting form is that of the trust, the monopolistic control company or holding company. In this case they have another purpose, namely, that of taking over from the parent company the share capital of the daughter companies which have been founded by it. I therefore term these 'takeover-companies.' These are formed because the big railway-building or electricity firms soon find themselves unable to carry on new enterprise in the way described. They could not for ever lock up their own capital in local electricity supply works and light railways, since they needed it for their own production, nor could the banks, with which they were naturally in close association. So the big manufacturers formed companies to take over the shares jointly created by themselves and the banks, and which were not yet ripe for passing on to the public — what I call 'takeover-companies' — and their shares and debentures were pushed on to the public. The whole proceeding might be called 'capital-substitution'; it consists in the participating company substituting its own shares for the ones it has bought and passing the former on to the public, while the banks and factories which have promoted the company quickly withdraw their capital from the railways and the electricity works. In this way a large number of participation companies were formed, both at home and abroad, e.g., the Gesellschaft für elektrische Unternehmungen, the Bank für elektrische Unternehmungen, the Deutsch-Ueberseeische Elektrizitätsgesellschaft, the Eisenbahn-Rentenbank, the Zentralbank für Eisenbahnwerte, etc., etc.

Thus these companies gradually began to collect capital of their own for their various purposes; and so no longer merely took over share capital created by the banks and factories behind them, but themselves financed these undertakings. In this way mere participating companies give birth to financing companies. To-day we find the financing companies playing a large part alongside of the big issuing banks

especially for the financing of undertakings whose shares cannot be brought on the market, or at least not for some time, either because the undertakings are too much of a local character (electricity works, light railways), or because they need a long time before they become profitable, or because they are in foreign countries (again, primarily electricity undertakings, mines, and railways).

The newest development in special finance companies is that alongside of the '*stock-financing companies*' for the flotation of new firms, '*goods-financing companies*' have also recently sprung up. These have their origin in the tremendous demand for credit and capital which arises, in industry where raw materials have to be secured abroad, in agriculture when the harvest has to be financed, in wholesale trade as the inevitable result of currency depreciation. Special finance companies have therefore been formed, generally through the intimate association of producers and wholesalers, of which we have already had occasion to speak. This occurred sometimes in connexion with one big concern, e.g., the potash bank of the Wintershall concern, the Bank fur Textil-industrie of the Blumenstein concern, the Baumwollfinanz A.-G. belonging to the Dierig spinning and weaving mills of Oberlangen-bielau, the Nordsternbank of the Nordstern insurance concern, and many others. Sometimes these have been started on a more co-operative basis, through the coming together of a number of producers and traders, very often with combines at the back of them. To some extent it seems as if they would develop into '*specialist banks*' for the trade in question. Special importance here attaches to the '*Corn Credit Banks*' which have been erected jointly by dealers and agriculturists in many parts of the country. There are now special banks for all the different agricultural products, a Manure Credit Bank, a Potato Credit Bank, Hopgrowers' and Millers' Credit Banks, and a Timber Credit Bank. The largest hitherto incorporated is the Zuckerbank A.-G., founded by the Association of Central German Sugar Factories, which comprises 161 raw sugar factories and three refineries. In direct connexion with a cartel are the Pig Iron Financing Company (*G.m.b.H.*), founded by the Pig Iron Association, and the Brown Coal Financing Company, by the Rhenish Brown Coal Cartel. These finance companies have been formed largely in order to provide another name on bills discountable by the Reichsbank. But there can be no doubt that Germany is now beginning, on the American plan, to try to extend markets not

merely by the producer or his bank giving the customer credit, but also by the introduction of special 'goods financing companies.' These are a development of the hire purchase system which has long been in use in America to a much greater extent than with us (employed in Germany especially for sewing machines), and they are especially useful for promoting sales to the final consumer (at present used for motor-cars more than for anything else). American observations show that markets can be enormously extended by this method.

To sum up the general conclusions of this chapter, we have to enumerate the following types of daughter companies in the strict sense of the word — the number of types being also probably on the increase:

1. Daughter companies for production, divided into those for
 - (a) raw-material supply,
 - (b) further stages of manufacture,
 - (c) own production by firms of merchants.
2. Daughter companies for selling, i.e., trading companies. Also those formed for purposes of buying (e.g., the glue industry), though these are rarer.
3. Daughter companies for taking over shares, in which case it is possible to distinguish further between simple participation and control.
4. Daughter companies for financing undertakings, subsidiary finance companies. There are of course also *independent* finance companies.
5. Daughter companies for *financing the purchase of goods*, the '*commodity-purchase finance companies*' (including raw-material financing).
6. Daughter-companies for *financing the marketing of goods*. These must be carefully distinguished from the Selling Companies : we shall call them the '*sales-financing companies*.'
7. A seventh group might be added to include the daughter companies for *insurance*, which should be distinguished according as they are either attached to the big insurance companies and carry on certain special lines of business or business in another country for them, or attached to big concerns for the purpose of undertaking themselves insurance business for their members.

Chapter XXX: Examples of Concern-Formation.

In this chapter we shall single out a few of the large number of concerns formed in Germany within the last ten years, on the ground either of their special importance or of their being especially characteristic.

Concern formation is not a new phenomenon in Germany, but it would be incorrect to say that there was any general tendency before the War towards the formation of concerns, except in relatively few special fields. The big groups of banks and the concerns in the electrical engineering industry head the list both in respect of date and of intrinsic importance. In both fields the development has now reached a kind of conclusion — though this does not exclude the possibility of occasional further combinations, especially in the direction of complete fusion. Thus the recent union of the Kommerzbank and Mitteldeutsche Kreditbank was followed, to everybody's great surprise, by that of the two biggest banks, the Deutsche Bank and the Diskontogesellschaft, with their capitals of 150,000,000 and 135,000,000 marks respectively, while the long-expected absorption of the Berliner Handels-gesellschaft by the Danatbank is probably only a question of time. There has also long been talk of the combination of the two big electricity concerns to form a regular trust. In this case, however, even if complete fusion were effected — which in my opinion is not in the least likely — the concern structure would inevitably be retained in respect of the relations between parent company and the finishing factories; the raw-material producers; the factories for special products such as incandescent lamps, motors, cables, telephones, accumulators; the local electricity works; and the takeover and financing companies. It is precisely these ramifications of production and the

peculiar nature of the producer's functions in the electrical industry which account for the two big electricity firms being still if not the biggest at any rate the most complex and intricate concerns in German industry. It is of course well known that the A.E.G. has recently entered into intimate relations with the General Electric Company of America, the largest electrical concern in the world, which stood godfather, so to speak, at the founding of the A.E.G. and now is in possession of perhaps one-third of its share capital. This makes a more intimate combination with Siemens und Halske superfluous. There are however a great many cartel-agreements between the two great concerns, as well as joint participations and participation companies. However, in the electrical industry the movement towards the formation of international concerns is quite exceptionally strong.

Before the War there was also a great deal of concern-formation in the coal and iron industry. The firms of Krupp, Thyssen, Haniel, Klöckner, Stumm, Phönix, Gelsenkirchen and others were each the head of a concern. Again there were concerns in the metal trade, with connexions in metallurgical production — those of Merton, Beer-Sonderheimer and Co., Aron Hirsch and Co., the Deutsche Gold und Silberscheideanstalt; and again in a number of special industries. Technical advantage to be gained was generally the dominant motive in bringing about the union.

After the War it was above all the type of more purely financial concern which came into prominence. While it is possible to discover technical and commercial gains realized by the Siemens-Rhein-Elbe-Schuckert-Union, still there can be no doubt that in this private concern of Stinnes financial interests were predominant. The very varied companies were kept together simply by a common financial direction, and were often quite unrelated to one another in respect of productive technique or trading. The case was much the same with the Sichelkonzern, which, like the Stinnes concern and many other smaller ones, collapsed completely on the stabilization of the mark.

But even concerns of a more organic structure than this, such as the firm of Reiniger, Gebbert und Schall A.-G. in Erlangen, which was linked up with the Industrieunternehmungen A.-G. (Inag) for the purpose of taking over and financing a number of other subsidiaries and daughter companies, suffered heavy losses

wherever they were not well managed or not well consolidated financially. This concern was finally absorbed in the Siemens Concern, which thus acquired a monopoly in electro-medical apparatus. Others which had spread their net too wide were forced to curtail their activities.

Among the concerns that were primarily financial in their origin and structure, the Reichseigene Industrie Konzern might be mentioned, the various undertakings of which were associated in the Vereinigte Industrieunternehmen A.-G. (Viag) — if this can be called one concern at all. This conglomeration included a number of different enterprises belonging to the Reich, with unified share capital, but without any sort of unified administration. The Reich enterprises originated to some extent in the War, e.g., the Mitteldeutsche Stickstoffwerke A.-G. (nitrates) (capital 20,000,000 marks, all in the hands of the Viag); the Bayerische Kraftwerke (power — capital of 15,000,000 marks, all in the hands of Viag); the Vereinigte Aluminiumwerke A.-G. (Viag, owning 20,800,000 out of 24,000,000 marks capital); and the Innwerke Bayr. Aluminium A.-G. (Viag holds 12,000,000 out of 13,200,000 marks capital). The other big War foundation in which the Viag had a share, the Deutsche Werke A.-G. (Viag participation 24,000,000 marks out of 29,000,000 marks), decided in 1926 to liquidate, and after the sale of several of its subsidiaries was regrouped into five companies.

The largest asset of the Viag in respect both of size and profitability is the Elektrowerke A.-G., whose capital of 60,000,000 marks is entirely owned by the Viag. The Viag, among other things, owns the whole capital of the Reichskreditgesellschaft A.-G. (capital 30,000,000 marks), and that of the Deutsche Revisions- und Treu-handgesellschaft (accountants — capital 1,000,000 marks); further, one-quarter of the capital of the Ilsederhütte A.-G. (smelting — capital 64,000,000 marks). To discuss whether it is desirable for the State to own undertakings of this kind would be going beyond the limits of this work. In 1929 the share capital of the Viag was increased from 40,000,000 to 160,000,000 marks, mainly to provide for the expansion of the Elektrowerke. The dividend has gradually gone up from 5 per cent at first to 8 percent in 1928–9.

In 1929 a number of undertakings owned by the Prussian State were also brought into a concern of a purely financial nature, under a controlling company called the

Preussische Elektrizitäts-und Bergwerks A.-G., with a capital of 180,000,000 marks. This comprises the Preussische Bergwerks- und Hütten A.-G., with its capital raised from 100,000,000 to 140,000,000 marks (mines and ironworks); the Preussische Elektrizitäts A.-G., with capital of 100,000,000 marks, originally 80,000,000 marks; the Hibernia A.-G. (mines — capital 72,000,000 marks, originally 56,000,000 marks); and the Bergwerks A.-G. Recklinghausen (mines — capital 67,000,000 marks, formerly 57,000,000 marks).

In the same way the three big traffic undertakings belonging to the City of Berlin — the Hochbahn A.-G. (elevated railway and underground — capital 175,000,000 marks); the Tramways, which are under the direct management of the city and are valued at some 200,000,000 marks; and the Allgem. Berliner Omnibus A.-G., together with certain other companies — were, in 1929, all brought into a single Berliner Verkehrs A.-G., which, with its 400,000,000 marks capital, constitutes one of the biggest German undertakings. The purpose of this was said to be to secure simplification of management, savings in taxation, and easier credit facilities. The biggest German concern of all is really a 'Trust' — the I.G. Farbenindustrie — and will accordingly be dealt with later. There are however in the chemical industry some other important concerns, the most important of which are the Deutsche Erdölgesellschaft (oil), the Oberschlesische Kokswerke (coke), the Riitgerswerke (chemicals), the Metallbank, the Deutsche Gold- und Silberscheidanstalt, the Holzverkohlungsindustrie (charcoal), and the Rhenania-Kunheim Chemische Fabriken (a fusion originating in an interest-group, since further amalgamated with Kaliwerk Friedrichshall — potash). The second place is taken by the West German coal and iron industry, with its Vereinigte Stahlwerke A.-G. (United Steel Works Company). Whereas the amalgamation of large-scale chemical industry is the product of a fast-expanding industry which has been scarcely touched by the economic crisis, the big fusion in the Rhenish-Westphalian mining industry is altogether a 'child of necessity' — a product of the extremely unfavourable conditions obtaining in this industry mainly as the result of the Peace Treaty and its interference with the rights of private property. This amalgamation did not ripen through the slow stages of a long development as did the 'Chemical Trust' — the Stinnes foundation of the Siemens-Rhine-Elbe-Schuckert-Union cannot be regarded

as a forerunner of it. In consequence the birth-pains of the 'Steel Trust' were far longer drawn out, and its foundation beset with many difficulties. One of the biggest firms which originally intended to come in, Friedrich Krupp A.-G., in the end decided to remain out, and even from a formal point of view the union which has now been achieved between the Rhein-Elbe-Union, the Thyssen works, the Phonix group and the Rheinische Stahlwerke is far from complete. For there is no sort of fusion of these firms; they have merely handed over the greater part of their works to a joint company, the Vereinigte Stahlwerke A.-G., and they themselves still continue to exist as holding or control companies, owning the greater part of the capital of the joint company. The Gelsenkirchener Bergwerksgesellschaft still keeps in its own management the mine 'Monopol,' estimated to be worth 20,000,000 marks, the Rheinische Stahlwerke keeps a few mines of its own, and the Thyssen group has kept some untapped coal-fields. In addition to their Vereinigte Stahlwerke shares, Gelsenkirchen and Deutsch-Luxemburg also possess shares in the Bochumer Gussstahlverein (20,000,000 and 14,000,000 marks respectively), Phönix owns some 13,000,000 marks worth of shares in Ver. Stahlwerke van der Zypen und Wissener Eisenhiitten A.-G., and Rheinische Stahlwerke a packet of shares in I.G. Farbenindustrie, the result of its taking over one mine.

The structure of Vereinigte Stahlwerke is thus very similar to that of Siemens-Schuckert-Werke G.m.b.H., which has been going since 1902, and to which Siemens und Halske A.-G. and Elektrizitäts A.-G. vorm. Schuckert were transferred. The only difference is that the shares of a G.m.b.H. cannot be put on the market, whereas the parent companies of Vereinigte Stahlwerke, as is well known, offered a small parcel of its shares (some 30,000,000 out of 800,000,000 marks) for sale on the Berlin Stock Exchange. Since however the shares of the parent companies, with the exception of Thyssen, are still being traded, we shall have a double issue of shares based on the same assets (if ever the shares of Ver. Stahlwerke come on the market), a practice which, if it were to find imitators, deserves unmeasured condemnation.

On the other hand, in view of the great interest which this notation has aroused both at home and abroad, it might perhaps become necessary to raise the issued capital of Vereinigte Stahlwerke; but then the parent companies ought to write down their own capital. These are at present trying to avoid the issue of further Stahlwerke

shares, since this would diminish their influence in the company. The condition of things has thus become extremely obscure, and presumably the only way of clearing it up would be for the whole share capital of the Stahlwerke to be issued, and the parent companies write down their capital accordingly.

Of the 800,000,000 marks original capital of the Vereinigte Stahlwerke, the Rhein-Elbe-Union group has 316,000,000, the Thyssen and Phönix groups 208,000,000 each, and the Rheinische Stahlwerke A.-G. 68,000,000 (in round figures; the capital of the original promoting company was 60,000 marks!). One hundred and twenty-five million marks of bonus shares were issued, but were recalled in the following year. There are however 514,000,000 marks of loan debt. Out of a net profit of some 53,000,000 marks a dividend of 6 per cent on each of the first two complete business years, ending 30th September 1927 and 1928, was declared.

The share holdings of Vereinigte Stahlwerke itself were estimated in the prospectus at about 93,000,000 marks. They included shares of the Austrian Alpine Montangesellschaft, almost the whole of the shares (Kuxe) of the Gewerkschaften Lautenberg, Heinrichsglück, and Freier Gründer, further, half the original capital of the mining firm Emscher-Lippe, and finally the shares of a number of other small works' trading firms belonging to the parent companies. It is of interest to note that it also owns shares in some of the cartels, viz. 1,720,000 out of 7,500,000 marks in the A.-G. Rheinisch-Westfälisches Kohlsyndikat, 3,000,000 out of a capital of 8,470,000 marks in the Gesellschaft für Teerverwertung, m.b.H., and 420,000 out of 500,000 marks in the Rhein-ische Kalkwerke, G.m.b.H.

Shortly after the big fusion was concluded some further additions were made. It acquired from the Stummkonzern 94 per cent of the share capital of the Eisenwerk Kraft, 83 per cent of the Westfälische Eisen- und Drahtwerke A.-G., 96 per cent of the Eisenindustrie zu Menden und Schwerte A.-G., 64 per cent of the Norddeutsche Hiitte, and 51 per cent of the Wittener Gussstahlwerke A.-G., also various works belonging to the Char-lottenhütte A.-G. and the Romberg Hüttenwerke. By the time this expansion was completed the Stahlverein disposed of eighty-five blast furnaces as compared with the 123 of the American Steel Trust. Its steel production was only about half of, its coal production however somewhat greater than, that of the American Trust. Its participations and shareholdings figured at 265,000,000 marks

on 30th September 1928.

The share of Vereinigte Stahlwerke in the various associations, after the above-mentioned accessions to it had taken place, are given in the following table, taken from the *Deutsche Bergwerks-zeitung*:

Association or Cartel.	Total production assessed for Quotas	Metric tons.		Per cent. according to Prospectus.
		Quota of Vereinigte Stahlwerke. Absolute.	Per cent.	
Pig Iron Association	2,268,852	1,079,204	48.47	34.0
Steel Ingot Syndicate	15,807,298	7,045,841	46.82	38.0
A-products Association	3,722,746	1,681,914	48.96	40.3
including				
semi-manufactures	764,400	416,368	56.44	53.0
cast iron	935,100	253,256	28.04	22.4
structural	2,023,246	1,012,290	55.77	44.8
Bar Iron Association	3,424,597	1,335,242*	41.94	32.5
Flat Bar Association	960,629	463,320	48.59	49.1
Rolled Wire Association	1,485,896	575,745†	38.775	19.3
Heavy Plate Association	1,602,004	755,071‡	47.13	40.0
Tube Association	—	—	—	50.2
Coal Syndicate	136,000,000	ca.30,000,000	35.84	22.0
* As on 1st January 1928	1,205,162			
† As on 1st January 1928	311,222			
‡ As on 1st January 1928	579,448			

The other figures for 1928 did not differ considerably from those given.

The Vereinigte Stahlwerke decided to confine themselves exclusively to iron and steel production, and have consequently handed over their finishing activities, and in particular the Maschinenfabrik Thyssen, to the Deutsche Maschinenfabrik A.-G. (Demag), Berlin. This was done through the foundation of a new company, the Demag A.-G., with 30,000,000 marks capital, to which the old Demag contributed its three works at Benrath, Duisburg and Wetter, and the Stahlverein its Maschinenfabrik Thyssen. The old Demag however still exists as a control company for the new Demag, holding 80 per cent of its share capital, while the Vereinigte Stahlwerke has been bought out by cash payments and special voting shares.

The unification scheme for the Upper Silesian cement factories is also of great interest. These have now, with one single exception, united to form the Schlesische Portlandzementindustrie A.-G. Before the War they were still eleven independent undertakings. In 1917 the Zementfabrik Groschowitz amalgamated with the Oberschlesische Portlandzementfabrik vormals Schott-lander, and formed an interest-group with the Oberschlesische Portlandzement- und Kalkwerke Gross-Strehlitz. A second concern formed itself around the Vereinigte Portlandzement- und Kalkwerke Schimichow, which had got under the control of the big concern Ostwerke A.-G., originating in the distilling industry. Schimichow bought a controlling interest in the cement factories Silesia and Frauendorf A.-G., which were situated in the same neighbourhood, and a violent struggle then ensued for the possession of the still independent Gogolin-Goradzer Kalk- und Zement-werke A.-G.; but these managed to maintain their independence, as did also the Zementfabrik Stadt Oppeln A.-G., which still remains outside the concern. Meanwhile the Zementfabrik Giesel A.-G. formed an interest-group with Schimichow, and the Opperler Portlandzementfabrik vormals F. W. Grundmann A.-G. one with Groschowitz-Gross-Strehlitz. In 1926 however the group Ostwerke A.-G., in alliance with the Berlin merchant bankers, Jaris-lowsky & Co., managed to unite the two concerns by buying up their shares. In this case too no real fusion resulted.

The Blumenstein Group is the typical case of a concern which originated among commercial interests and has a primarily *financial* structure. This concern is one of the few of this type which survived the end of the inflation, and has even expanded since then. It is the only one of the concerns in the textile industry which has pushed its way into a number of different branches of the industry — apart from the big stores' concerns, which have linked up textile undertakings as a source of supply for themselves (e.g., Tietz, Karstadt). The Blumenstein Concern originated in the firm of Gebrüder Josef und Alfred Blumenstein, traders in sacks, of Mannheim, now a G.m.b.H. established in Berlin. The owners put their war profits into various branches of textile production that were nearly allied with their trade, above all into the jute industry. In 1922 six jute spinning and weaving firms coalesced to form the Vereinigte Jute A.-G., of Hamburg, which includes all the most important firms in this industry and has an absolute monopoly in many lines. Again in the closely

related hemp industry four firms combined to form the Hanf-union A.-G. Berlin-Schopfheim, with 3,000,000 marks of capital. They further participated in the milling industry, important in its role of purchaser of sacks, and also in the cotton and linen industry. Here its control over the Gesellschaft für Spinnerei und Weberei in Ettlingen is significant; to acquire this control it carried on a lengthy struggle with the Hammersengesellschaft, the biggest concern in the textile industry, which was decided in favour of Blumenstein's, by Blumenstein getting hold of a minority packet of Hammersen's shares, and using this to make trouble at the general meetings of the company.

The Blumenstein Concern was for a time in intimate relations with one belonging to the biggest Berlin firm in the cotton trade, Gebr. Simon — the Vereinigte Textilwerke A.-G. (capital 12,000,000 marks). This concern had also begun participating in the firms of manufacturers that supplied it, but after a while decided to give up its connexions in industry and so transferred its participations to the Blumenstein Concern, which owns among other things 75 per cent of the shares in the Deutsche Textilwerke Mauthner A.-G. of Langenbielau, and the entire capital of the Manufaktur Köchlin-Baumgartner & Co. of Lörrach.

All these participations, and numerous others, in seventy to seventy-six firms in all, are held for the firm of Blumenstein by the Bank für Textilindustrie A.-G. in Berlin (capital 12,000,000 marks); and this has the Textilverwaltung A.-G. (administrative) in Berlin, Treuhandverwaltungs- und Revisionsverwaltung A.-G. (accountancy), and Allgemeine Textilmanufaktur A.-G. in Berlin as 'takeover' and holding companies. The Bank für Textilindustrie is a typical concern bank — or perhaps it would be more correct to say that, in addition to being a holding company for the firms in question, it functions also as a finance company for them. It holds 75 per cent of the capital of 15,000,000 marks of the Vereinigte Jute A.-G. in Hamburg, and concluded a loan of £1,000,000 in England for the benefit of eleven associated firms in the cotton and linen industries. Although, as has been observed, relations to the original sack-dealing business of the founders can be traced, yet it cannot be said that the concern as such is under any unified direction, either from a technical or a commercial point of view, the various firms being entirely independent of one another in these respects. The only unity it possesses is a purely financial one.⁴⁶

In the formation of the Concern of the Five Linoleum Factories commercial motives were predominant. These were already associated in a fairly solid cartel, which still holds, since one little factory, the Rheinische Linoleum Fabrik in Bedburg, elected to remain outside the concern. This grew in time into a regular international trust, which controls most European countries.

Commercial motives enter into the formation of those concerns and amalgamations which aim, as those of the potash and cement industries, at securing the closing down of unprofitable works or the dividing up of markets on the principle of distance from the place of production, etc. The association of firms for the sake of getting increased quotas in the syndicates may also be considered a commercial motive, though technical considerations are of course also involved. The employment of the most favourably situated works to the full extent of their capacity may result in a reduction of price, and this again in an increased demand. The fact that in fusions of this kind unfavourably situated firms are often bought above their real value, is a price worth paying from an economic point of view, since the ruthless extinction of these firms in competitive warfare leads to a state of things which is undesirable both from an economic and from a social point of view. It is however less desirable when, as sometimes happens, the weaker works coalesce into groups within the syndicate, and by the force of mere numbers prevent this development and the corresponding reduction of price from taking place. The Reich Minister of Economic Affairs has rightly refused to accede to demands by these groups for higher prices.

In the potash industry the movement towards concentration and amalgamation is certainly still in progress. Very considerable alterations have taken place in the balance of concerns and groups. The biggest concern, Gewerkschaft Wintershall, has been the most energetic in furthering the concentration of the industry — its leading company is now the Deutsche Kaliindustrie A.-G., with a capital of 200,000,000 marks. It has succeeded in reducing the numbers of producing works within the concern by 24 per cent. The following table may be of interest, as it shows the concentration of works in the biggest potash concerns:

Robert Liefmann, *Cartels, Concerns and Trusts*, 312

Concern.	Participation quota in thousandths.	Permanently occupied works.	Reserve works.	Works definitively closed.
Wintershall-D. Kaliind	387.45	10	19	56
Burbach-Krilgershall	181.01	9	8	14
Salzdethfurth-Aschers- leben-Westeregel	141.95	9	10	24
Prussian State	59.69	3	2	5
Friedrichshall ¹	44.33	2	1	8
Anhalt State	34.29	2	1	7
Dr. Sauer's Concern ²	25.24	1	3	1
Deutsche Solvaywerke	24.75	1	3	—

¹ Friedrichshall has amalgamated with the Verein chemischer Fabriken Kunheim-Rhenania, which mainly produces phosphate manures, to form the Kalichemie A.-G., of which it has fifty-one thousandths of the capital. The concern now produces a manure of potash and phosphorus mixed.

² The Dr. Sauer Concern has recently gone into the Wintershall group, raising its quota in the potash syndicate to 413 thousandths in all.

The not uncommon cases where a big firm belongs to two or more concerns are of special interest. The accumulator factory Berlin-Hagen, though founded jointly by the A.E.G. and Siemens und Halske, may to-day be properly held to be independent and the head of a concern of its own. Its principal shareholder is now, curiously enough, a textile manufacturer and financier, Herr G. Quandt, who has nothing to do with the electric industry. But the Osramwerke G.m.b.H. en commandite is jointly controlled by the A.E.G., Siemens und Halske, and the Auergesellschaft — or at least the person who controls this latter, the financier L. Koppel, of Koppel & Co. — which participate to 40 per cent each and 20 per cent respectively in its share capital of 40,000,000 marks. In 1929 the General Electric Co. of America also got a participation of 16 per cent, which was taken from the three owners in the proportion of their participations. The Osram Company is itself the head of a concern, and at the same time founder and principal member of the International Incandescent Lamp Combine. A similar proceeding occurred recently, when Siemens und Halske and the Rütgerswerke united all their works or subsidiary companies for the manufacture of electrode carbons into a single company, the Siemens-Planina, A.-G., with a capital of 18,000,000 marks. Here we find considerations of rational

management leading to fusions of firms beyond the frontiers of the original concerns.

According to a table given in *Wirtschaft und Statistik*, about 12,000 German public companies (A.-G.) had together an original capital of 12,000,000,000 marks. Only 2,106 of these companies belonged to concerns, but these had a capital of 11,000,000,000 marks, i.e., 62–63 per cent, after duplication has been excluded. Potash mining is fully organized into concerns up to 100 per cent, of the capital involved, coal mining is 90–95 per cent., heavy iron 80 per cent, electricity production and supply 81 per cent, the chemical industry 78 per cent. In the banking, insurance, transport and building trades between 50 per cent and 70 per cent of the capital invested in the trade, in so far as it is carried on by means of joint-stock companies at all, is controlled by concerns. The proportion for the rubber, stone and earth, instruments of precision and optical industries is between 30 and 50 per cent.

Chapter XXXI: Amalgamations.

The various forms of concern-structure, which are employed in different cases for various purposes, are all more or less complicated. They aim at the establishment of intimate business relations between firms, and often realize certain economies, but in general do little to promote that greater rationalization of economic activities which is to-day the principal aim of all concerned. Fusion is superior to all the other forms of union in this respect, and thus we find to-day a widespread tendency to proceed from the looser forms of organization to this, the most solid of them all. The reason for this is of course an historical one. German large-scale industry developed slowly, and in many cases private firms gradually attained a considerable size. Till fairly recently joint-stock companies played a smaller part in Germany than in other countries at a similar stage of industrial development. The characteristic of German industry, apart from a few special cases of quite new industries, was its subdivision into a relatively large number of firms.

The existence alongside one another of numerous firms in the same trade, which was due partly to the previous subdivision of the country into small states, and partly to the intense particularism of localities — still strong even to-day — led in the first instance to the conclusion of *cartels*, and these in their turn to vertical concentration, to the integration of firms in heavy industry. But it would be quite untrue to assert that vertical concentration is characteristic of Germany, and horizontal concentration of other countries. Quite on the contrary, if the very wide term ‘concentration’ be taken to include cartel-formation, ‘horizontal concentration’ would be peculiarly widespread in Germany. But, even in the narrower sense of the word ‘concentration,’

if this be taken to refer to the tendency to the formation of concerns and amalgamations, the assertion does not hold, and even the writers who were originally responsible for it are now inclined to qualify their statement considerably. It is a fact that both in France (Schneider-Creusot) and even more in England, there are big vertically grouped firms and concerns of a complexity which is rare in Germany. Whereas in the inflation period the speculative buying up of enterprises to form big vertical concerns at times played a big part, we now find on the contrary that the efforts being made to secure the greatest possible degree of rationalization are leading rather to fusions, i.e., to agglomerations of enterprises which are in the main *horizontal* in structure. As I have so often remarked already, the various tendencies towards better organization and concentration run on alongside of one another; we find cartel-formation, concern-formation, amalgamation, and the formation of non-monopolistic federations and associations, according to the requirements of the moment.

Rationalization is only to be achieved by the individual through the greatest possible economy in all costs of production; and by the trade as a whole through the greatest possible expansion of those producers who work cheapest and the gradual elimination of those whose costs are higher. Both these considerations encourage fusions, and these, where the number of firms is already small, may become monopolistic fusions (e.g., in Germany in accumulators, jute, linoleum and other industries). The other method however, of destroying the weaker firms by means of intensive competition, is still very largely employed, as the bankruptcy statistics show. But this method, particularly in those branches where large-scale industry predominates, involves such extreme hardships and such violent economic upheavals, from a social point of view especially, that the way of amalgamation is nearly always to be preferred.

In the case of every firm there is — of course within fairly wide limits either way — an economic size; or rather, several different economic sizes, which do not necessarily coincide, because it is here once more necessary to distinguish the technical, administrative, commercial and financial aspects of production. The technical optimum may differ very considerably as between different works, especially where various sorts of products are manufactured in the same industry,

e.g. the technically optimum production of a foundry differs completely from that of a rolling mill. But provision can more easily be made for this within one big concern composed of several different works. It is here merely a case of finding a market for the excess products of the various departments which cannot be further worked up within the same concern. The way in which the great variations in the market requirements of the big integrated firms, according to trade fluctuations, damages the specialist manufacturers, has been described above.

Other branches of production are primarily concerned, in their movement towards union, with attaining to a *commercially* optimum position, both in respect of buying and of selling. It may in general be said that until quite recently most branches of German industry, with the possible exception of the electrical engineering industry, did not exploit sufficiently the advantages to be gained by unified direction, unified buying and selling, or, above all, the *financial* advantages of the really large enterprise. This fact is the cause of the present movement towards amalgamation. Amalgamation does not of course mean that the optimum is necessarily attained; it is, in fact, impossible to be sure at any time whether the optimum has been reached or not. The most we can say is that the monopolistic fusions attain to a relative optimum in many respects. Even when we go a long way back, we find fusions, even fusions on a large scale, occurring from time to time in German industry. One of the oldest German joint-stock companies, the Vereinigungsgesellschaft für Steinkohlenbau im Wurmrevier, of 1836, was itself the product of a big fusion of many separate mines. In 1872 nineteen Rhenish-Westphalian powder factories united to form a company, which after fusion with the Pulverfabrik Rottweil-Hamburg developed into the Vereinigte Köln-Rottweiler Pulverfabriken A.-G., later the Köln-Rottweil A.-G. Amalgamations of the Nuremberg paintbrush factories, of the Ultramarine factories, of the Elbe shipping companies, of the straw goods factories occurred in the course of the last century, and some of these had a relatively monopolistic character. Then there was a big amalgamation movement after the crisis of 1900, affecting primarily the banks and the industries which had expanded rapidly during the boom period, especially the electrical and the coal and iron industries, and it took the form of vertical agglomerations or integrations.

After the inflation period and during the economic crisis which followed on

stabilization — though it was just as much a result of the Peace Treaty as of the stabilization — the great amalgamation movement began which is still going on at the present time. The most striking instance of this movement is the formation of the largest private undertaking in Germany, leaving the Reichs-bahngesellschaft (railway company) out of account — the chemical ‘trust.’ The history of the agglomeration process in this industry, which started in 1904 with the first interest-group of the five biggest undertakings in the industry, has been described above.

Since the I.G. Farbenindustrie is a real ‘trust,’ holding a monopoly position for many of its products, it will be dealt with later. We described the unification of the big steel works in the Rhenish-Westphalian iron and steel industry, while emphasizing that the movement towards concentration in this industry is not yet spent. In Upper Silesia too there is a remarkable fusion of steel works to be mentioned. It was brought about both by the unfavourable condition of this industry owing to the arbitrary dismemberment of this territory, and probably also by the loan of 46,000,000 marks granted by the Prussian State Bank (Seehandlung) to the two biggest works, the Oberschlesische Eisenindustrie A.-G. (Caro) and the Oberschlesische Eisenbahnbedarfs A.-G. After long negotiations it proved possible to bring in the Donnersmarckhütte, part of a third big enterprise that was not in debt to the State. The Oberschlesische Eisenindustrie A.-G. in its turn mostly belongs to the Linke-Hofmann-Lauchhammer A.-G., which belongs to the A.E.G. concern. The 30,000,000 marks capital of the Vereinigte Oberschlesische Hüttenwerke in Gleiwitz was taken over, half by the Eisenindustrie Linke-Hofmann group, and one-quarter each by each of the other two companies. The debt to the Prussian State Bank, namely 36,000,000 marks, actually paid out was transferred to the Reich and Prussia. The conditions imposed by these creditors for the amortization of the debt are extremely favourable. For the first five years they require no interest at all, for the next five years 1½ per cent, for the next ten years 3 per cent, and for the remaining fifteen years 4 per cent. The shareholding companies however had to bind themselves during the first five years not to pay any dividend at all except with the consent of the two Governments, and for the first twenty years to spend an equal sum to that paid out in dividend towards increasing the amortization payments to the Governments. The Reich and Prussia have one share each, so as to have the decision

of any question on which the two parties of capitalists are equally divided. Both Governments keep representatives on the Board, who have a right of veto on all deliberate closing down of works or sale of quotas; if the veto of the Government representatives is disregarded, the State loan of 36,000,000 marks immediately becomes due with 5 per cent accumulated interest. These provisions suggest that there is no idea of issuing the shares of the new company to the public.

A third fusion in the steel industry is that which resulted in the Mitteldeutsche Stahlwerke A.-G., with its capital of 50,000,000 marks. Thirty-five million marks of this were taken over by the Linke-Hofmann-Lauchhammer A.-G., in consideration of the inclusion of their central German ironworks and mines, and 12,000,000 marks by the Vereinigte Stahlwerke A.-G. as the price of a steel works of theirs situated in Brandenburg.

Among the other big fusions, that between the five South German sugar factories might be mentioned. The largest, Zucker-fabrik Frankenthal, absorbed all the rest and changed its name to Süddeutsche Zuckerfabrik A.-G.

In the photographic industry, especially among the manufacturers of cameras, an interest-group consisting of the Carl Zeiss Endowment, C. P. Goerz A.-G., Ica (International Camerafabriken A.-G.), Contessa-Nettel A.-G., and Ernemann A.-G., soon led to a fusion of the four latter firms under the leadership of Zeiss which had secured a predominant position in each of the others. C. P. Goerz is the biggest of the four; after having written down its capital from 7,000,000 to 3,150,000 marks to cover its own losses, it now raised it again to 12,600,000 marks and took the name of Zeiss-Icon A.-G. There cannot however be said to be a monopoly situation in any section of the photographic industry, since even in camera manufacture there are a number of small firms beside the big concern, and there is also Rietschel G.m.b.H., which now belongs to the I.G. Farbenindustrie.

In 1928 there was an amalgamation of thirty-two manufacturers of roofing material, ten of which belonged to the Rütgers-werke Concern, and the others to the Oberschlesische Kokswerke; one of them, C. F. Weber A.-G., belonging to the latter concern and itself in possession of twelve daughter companies, raised its capital from 1,000,000 to 9,000,000 marks, absorbed the others, and changed its name to Vereinigte Dachpappenfabriken, A.-G.

Among other amalgamations may be mentioned that of the rolling-stock factories, brought about by the very unfavourable state of the industry; that of the South German watch and clock industry, which grouped itself around Gebr. Junghaus in Schram-berg; of the automobile industry; that of several shipyards and shipping companies; and of the paper, porcelain, cement and many other industries.

Interesting too are the fusions of the subsidiaries of different concerns, since here the aim of rationalizing production stands out particularly clearly. Important fusions of this kind in recent times have been the Deutsche Maschinenfabrik A.-G. (Demag), the Deutsche Edelstahlwerke, Vereinigte Signalbau, G.m.b.H., the Neue Automobilgesellschaft, Protos, and Siemens-Plania A.-G.

Although it has gone so far already, the amalgamation movement in Germany is still probably only at its beginning, since there are still a large number of industries in which concentration would realize great financial economies. And it is forced on us by the extraordinary lack of capital in Germany at present, a lack which makes itself felt especially by the smaller and middle-size firms, and which in view of the reparations burdens and the internal economic and financial policy of the country is likely to be a permanent feature of the situation.

The amalgamation movement is however also playing its part in all other countries which are in a fairly ripe stage of industrial development, wherever there is still a large number of small and moderate-sized firms that have hitherto been prevented from coming together by a strongly individualistic trend of opinion. Thus in England, especially, very large amalgamations have occurred in all the more important industries. Even in the very heart of English individualism, the Lancashire cotton industry, a large measure of amalgamation between numerous spinning firms has been achieved, and also in various districts of the British coalmining industry.

Chapter XXXII: International Concerns.

In our discussion of the international *cartels* we have already referred to the importance of the big *international concerns*. The development of these went on more or less simultaneously with that of the international cartels and of the national concerns. To some extent it was the same industries, the explosives industry, the electrical industry, the oil industry and the banks which were the first to excite attention by formation of concerns — which were national at first, but very soon international as well. There were also however other important fields of enterprise, that of the heavy industries above all, in which the formation of concerns was long restricted to their national territory.

The relatively early development of big international concerns in certain industries was due to two principal causes. In the first place, legal and political conditions led to branch firms in foreign countries being constituted as separate companies; and secondly and above all, the system of protective tariffs rendered export difficult and forced the big firms to start works of their own in foreign countries. Thus we find here too that *decentralization* which justifies us here too in speaking of a ‘concern.’ This system is to-day applied not merely to productive enterprises, but equally to selling companies in other countries, above all in the oil industry. The oil industry probably still represents the high-water mark of international enterprise.⁴⁷ The Standard Oil Concern controls more than five hundred companies in fifty-two different countries, with together about 20,000,000,000 marks capital. But the two other big concerns in the industry are hardly less international. The Royal Dutch Petroleum Company, with its 680,000,000 guilders of capital, is the head of a vast

interest-group, which has a second head in the Shell Transport and Trading Company, with its £43,000,000 capital. Both have subsidiaries in the various countries both for production and sales. The head of the third big oil concern is the Anglo-Persian Oil Company with a capital of £20,000,000, in which the British Government is a large shareholder.

All three concerns, as is well known, have now entered into relations with the various German companies (the Bergin Gesellschaft, the Erdol- und Kohleverwertungs A.-G., I.G. Farbenindustrie, etc.) which are trying to develop the various German patents for the 'liquefaction of coal.'

The two big German electrotechnical concerns, the A.E.G. and Siemens und Halske (or Siemens-Schuckert), are probably linked up internationally to an even greater extent than the Chemical Trust. Not merely have they in the various countries a large number of selling companies, sometimes themselves undertaking installation, but they are also interested by participation in a very large number of electric light and power companies throughout the whole world. These participations are maintained largely by means of special *power finance companies* both at home and abroad. Some of these have, it is true, acquired a position of greater independence in consequence of the War. Among these may be mentioned: the Gesellschaft für elektrische Unternehmungen, the Bank für elektrische Werte, the Thüringische und Sächsische Elektrizitäts-Lieferungsgesellschaften, the Lahmeyer-Elektrizitäts A.-G., the Schweizerische Gesellschaft für elektrische Industrie, Basel, the Bank für elektrische Unternehmungen in Zurich, the Compania hispano-americana de Electricidad (formerly the Deutsch-Südamerikanische Elektrizitätsgesellschaft), the A.-G. für elektrische und Verkehrsunternehmungen Budapest (Trust), the Société financière de transports et d'entreprises industrielles (Sofina) Brussels, etc. Other electrotechnical factories, e.g., the Bergmann-Elektrizitätswerke, the Osram G.m.b.H. (lamps), Robert Bosch (magnetos), Akkumulatorenfabrik A.-G., Telefunken A.-G. (wireless), Reiniger, Gebbert und Schall (medical apparatus), etc., have numerous firms abroad. In this field too there are a great number of international cartels, contracts for the exploitation of patents, and interest-groupings with foreign, especially American concerns (General Electric Company, Westinghouse, etc.).

Since electrification requires a very large amount of capital, America has recently been making a big push forward with her electrical participation and financing companies, and has for instance now got a big participation in the Sofina, which is itself the head of a big international concern (D. Heinemann).

Among other big international concerns in other branches of German industry, we may mention the Gesellschaft für Lindes-Eismaschinen, the Mannesmann Röhrenwerke A.-G., A.-G. für chemische Industrie vormals Scheidemandel (glue industry), also various chocolate manufacturers, silk thread manufacturers, cement factories and spinning mills. In general, the number of international concerns which have their head office in Germany is not very large, and, since the War, no longer corresponds with Germany's industrial position in the world. It has been greatly diminished by the robbery of German private property after the War, and the lack of confidence and lack of capital resulting from this have hitherto acted as a brake on development. On the other hand, the penetration of foreign international concerns into Germany has been very marked, and this is a movement which has to some extent been encouraged on political grounds.

The greatest attention was excited by the heavy participation of General Motors in the biggest German automobile factory, Adam Opel, which was thus turned into a public company with 60,000,000 marks of capital; also by the taking over of the nearly insolvent Neckarsulmer Fahrzeugfabrik A.-G. by Fiat, the most important Italian automobile company.

Equally important was the amalgamation of the biggest German artificial silk concern, the Ver. Glanzstoffwerke A.-G., which also owned the J.-P. Bemberg A.-G., with the decidedly smaller Dutch concern of Enka, which to this end increased its capital from 25,000,000 to 125,000,000 guilders and took the name All-gemeene Kunstsijde Unie. The shares of the Ver. Glanzstoff factories are to be exchanged into shares in the Dutch company. (It is an unusual thing, and in the main a result of the unfavourable German taxation conditions, for a Dutch company to absorb a much larger German one, but, if it had to be, they might have chosen a German name for the concern.) Production is to be expanded by the German and Dutch works in the ratio of two-thirds to one-third. In any case the financial centre of gravity of the concern and so of a large part of the German artificial silk industry now lies in

Holland, as is also now the case with the margarine industry — Margarine Unie now controls about 60 per cent of the total German production.

The same is the case with the German match and ball-bearing industries, now dominated by the Swedes; the gramophone industry by the English; the film industry by the Americans; the cork industry by the Belgians. With its unfortunate economic situation, its lack of capital, and its tribute obligations, this intensive penetration of Germany by foreign concerns is presumably likely to continue. It is not the task of this book to discuss the dangers of such a situation.

The international influence of the German banks has also greatly diminished. Before the War these had numerous branches abroad or else stood in intimate relations with particular foreign banks' in South America especially. Many of these connexions have remained, but, generally speaking, the German banks are only just beginning again to form fresh links with foreign countries, and these often go beyond the ordinary business of banking and have for their object the joint financing of enterprise abroad.

In respect of their international concerns the United States easily outdistance all other countries. Even before the War they were pursuing a very active policy of expansion by means of subsidiaries founded in the different countries. Besides the oil industry — the foreign subsidiaries of which were at that time nearly all simple selling companies — and the electrotechnical industry (General Electric Company, Thomson-Houston, Westinghouse), we may mention the Singer Company, which with its various subsidiaries in the different countries controls some 80 per cent of the world production of sewing-machines, the Eastman Kodak Company, the National Cash Register Company, the International Harvester Company, and above all the American Tobacco Company, which at times pursued a very energetic policy of expansion in Germany, England, Switzerland, and other countries, provoking violent efforts on the part of the national traders to defend themselves.

We shall not here go into the expansion of the big American concerns outside of Europe, in South America, the Far East, etc. After the War this outflow of American capital, which is to-day the origin of most international concerns, was naturally much increased; and this movement is probably only at its beginning, since the vast debts of Europe to America can only be paid by America consenting to reinvest them

abroad to a large extent.

In England international concerns are commoner than in other countries, since the extensive colonial possessions of this world-empire and England's position as the oldest and biggest exporting country practically force her to develop such concerns. England has for instance the largest number of foreign banks and international financing and insurance concerns of any country in the world, though with all these the atomization of enterprise brought about by English individualism is still very great, and the tendency to the formation of really big international concerns only just beginning to show itself. The same is, generally speaking, true of English industry too — and in fact until quite a short while ago the English methods of industrial organization were still pretty backward. But in the soap industry (Lever Brothers, capital £56,600,000), in cotton spinning (J. and P. Coats and others), in electrical engineering (Vickers Ltd. with its con-nexions in the iron and steel industry, also British Thomson-Houston, and English Electric Co.), in the explosives (Nobel Industries Ltd.) and some other industries, as well as the two big oil concerns already mentioned, we find big international concerns developed by the English. English paper and gramophone concerns are now penetrating into Germany. In 1928 a concentration of the four big chemical factories, Brunner Mond and Co. (capital £14,000,000), Nobel Industries (capital £16,000,000), British Dyestuffs (capital £4,760,000) and United Alkali Company (capital (£3,770,000), was achieved on the model of the I.G. Farbenindustrie; these companies became Imperial Chemical Industries Ltd. with a capital of £65,000,000, since when further extensions have been made into the aluminium industry and brought the total capital up to £75,000,000. An 8 per cent dividend was declared on the old capital.

The international expansion of France was mainly confined to banking. The big industrial concerns such as Schneider-Creusot, the influence of which, like the concerns in other countries, also extends from heavy industry into electrical engineering, did not, generally speaking, begin to acquire foreign subsidiaries until after the War (among the most important being that of Schneider in the Austrian Succession States). There are now important international concerns — above all in the chemical industry, where Etab-lissements Kuhlmann produce some two-thirds of the French dye-stuff production, and also in other fields, mixed manures, artificial

silk, heavy chemicals, and now nitrogen; L'air liquide (Procédés Georges Claude), perhaps still more important and certainly more international, which is the leading firm in the oxygen industry and which also produces nitrogen from the air by a process of its own, owns subsidiaries in a great many countries, Germany above others; the Manufactures de Saint-Gobain is active in the glass and also in the chemical industry; there is the Compagnie Thomson-Houston in the electrotechnical industry, etc. The concerns belonging to the great French promotion banks and finance companies, particularly those for promoting colonial enterprise, are also worthy of mention.

Belgium is remarkable for the fact that there the big banks (the Société générale de Belgique, and the Banque de Bruxelles) have had a greater influence upon the initiation and financing of enterprises than in any other country. But big financiers (Empain, Thys, Heinemann, and more recently Löwenstein) have also formed large concerns, which have maintained important enterprises, some at home and in the Congo State, but very many too in Europe, the Near East, and South America. For instance the Solvay Concern in Germany belongs to the biggest Belgian owners of potash mines and chemical factories, and is held together by the Mutuelle Solvay S.A. Big financing companies for electrical industry (the Sofina and the Trufina); and for railways, light railways, etc., also have their head offices in Belgium. Liège is the centre of the International Cork Trust, which also extends to Germany.

Luxemburg is the centre of the Arbed Concern, the Aciéries réunies Burbach-Eich-Dudelange, which is active in the iron industry of all the neighbouring countries. It is also the seat of the International Steel Ingot Syndicate.

Italy possesses some big concerns, especially in the iron, chemical and electrotechnical industries. Apart from the fact that its biggest concern, that of Montecatini, which heads the first two industries above-mentioned, has licensed various foreign undertakings to use its nitrogen-fixation (the Fauser) process, Italian concerns have not penetrated beyond the borders of the home country to any appreciable extent.

As might be expected from its neutral position and its considerable capital wealth, Switzerland has already developed some most extensive international concerns. The most important are probably those in the milk and chocolate industries (Nestlé-

Anglo-Swiss-Condensed Milk Company, Suchard, Cailler-Kohler, etc.); in the electrotechnical industry (Brown, Boveri and Co.); in mechanical engineering; and in the shoe, silk, and chemical industries. Switzerland is also the seat of important finance companies, possessing a large number of subsidiaries in many countries. In Austria the most international branch of industry is probably the bentwood furniture trade, the two most important firms, which supply a large part of the world production, with their numerous foreign branches, being gathered together in a Swiss control company, the Thonet-Mundus A.-G. of Zurich. The same is the case with the Austrian fez industry; its control company is the Austrian Tarbouches Trust.

The big ironworks of Czechoslovakia have to some extent passed into French hands. Among other big concerns we may mention that of Gebrüder Petschek in the brown coal industry, which also controls a very considerable part of the East German brown coal industry; and above all the concern which started with the soap firm of Georg Schicht A.-G. of Aussig and has now gone beyond the chemical industry into margarine, polishes, perfumes and the like, recently penetrating also into the German chocolate industry (Reichardt, etc.). In Thomas Bata Czechoslovakia also possessed the largest European shoe manufacturer, whose competition is now making itself so disagreeably felt in the German shoe industry.

In Holland, apart from the Royal Dutch Petroleum Company, which dominates all else, we may refer to the margarine industry, in which there are two very important international concerns, Jürgens and Van den Bergh, who also control the greater part of the German margarine industry. They have formed a joint control company, Margarine Unie, and recently also formed an interest-group with the Schicht Concern already mentioned, so that they now control 75 per cent of the total European production of margarine. It has also entered into intimate association with the great English soap trust of Lever Bros. In the incandescent lamp industry (Philips) Holland has the leading position on the Continent after the Osram concern, and the Philips Concern is also extremely active in other fields of the electrical industry, in the radio industry especially. In addition, there are great concerns for commerce and plantation in the colonies, which have to some extent developed into investment and finance companies; at the head of these is the more than a century old Nederlandsch Handel My. In consequence of the capital wealth of Holland Dutch banks and financing

companies with foreign subsidiaries are very numerous.

In Scandinavia the great Norwegian nitrogen concern has been built up above all with French capital; I.G. Farbenindustrie now have shares in it again, as the Badische Anilin- und Sodafabrik had formerly. The capital invested in the big Swedish iron-ore concern, Grängesberg-Oxelösund, is predominantly English. The reverse movement, the penetration of Swedish capital into other countries, has gone furthest in the match industry. The Swedish Match Trust, being a regular trust, will be dealt with later. Other big Swedish concerns, which have recently started on a great expansion in foreign countries, are the ball-bearing trust and the Ericsson Telephone Company.

The big Japanese concerns, which are to some extent very old, generally family businesses, and which are generally grouped round some big bank (Mitsui, Mitsubishi, Sumitomo, Suzuki, Yasuda and others), have hardly penetrated beyond Eastern Asia, although standing in close relationship with many European and American concerns.

It is probable that the importance of large international concerns in the economic development of the world will greatly increase in the near future. This movement may greatly increase the dangers inherent in the international cartels. Whereas international cartels are only concluded between countries of more or less similar economic structure and equal capital power, international *concerns* may also be formed between unequals, precisely with a view to the *domination of the weaker by the stronger*. And so there arise all those problems connected with the *flooding* of weak countries by foreign capital, which are likely to attain an ever-growing importance in the economic relations between Europe and America. International concerns are often in a position, owing to their great capital power and to the monopoly they enjoy in one country, to wage an extremely violent competitive war in other countries; numberless instances of this procedure may be traced in the annals of the oil concerns, the explosives concerns, the Swedish Match Trust, and other big concerns. However, such struggles are generally only of short duration, the leaders of the big concerns soon realizing where their interest lies and coming to an agreement, generally in the form of a territorial cartel. Price-agreements between such concerns for their various markets are more difficult of attainment, and

production cartels even more so, since every producer still imagines that the quantity he markets could easily be increased.

In any case international concerns can fight down new competition with far greater effect than cartels; they can, however, do much to encourage a rational division of labour between countries and thus the cheapest possible supply of the needs of the consumer. As with most economic phenomena, both results will probably occur. Loud complaints will be heard of the tremendous power of these international organizations, but in the end their advantages will also come to be recognized.

The question as to how a country is to prevent itself being exploited by a few big international concerns is one of the most difficult which foreign policy has to deal with. The most effective, though it must be confessed somewhat drastic method, would seem to be that of a State import monopoly, organized in intimate association with the home producers and merchants. The resulting concentration of the whole demand of a country is a factor which as a rule cannot be ignored even by the most powerful of monopolists. Since, as has already been observed, no important product has ever yet been cornered by a single world-monopolist, any State which reserved to itself the right of importing would generally be in a position to play off one concern against the other even where two such concerns had come to an agreement on their marketing policy in the State in question. It should be patent to anybody that the existence of such concerns raises questions both of economic policy and of general foreign policy.

Chapter XXXIII: The Significance of Concerns and Fusions. The 'Concentration Movement'

Our discussion will have shown that 'concern' is a generic term for very various types of organization; it is even incorrect to regard the concerns as invariably the outcome of a movement towards *concentration* of firms. The founding of subsidiary companies is often due, not to any concentration movement, but to a movement which in a sense is the precise opposite, a movement which may be said to aim at *decentralization* or *diffusion*. This shows itself to-day in the way in which particular activities which were hitherto an integral part of one enterprise are formed into companies that are juristically independent of and economically may stand in very various relations to the parent company. The first subsidiaries of this kind were local electricity works; then came the foreign branches formed as independent companies owing to political conditions or differences of company law. Finally, the private-company structure became frequently used to give the status of independent companies to home branches also, e.g., in the shoe and grocery trades.

Just as there is everywhere a simultaneous tendency towards the division and towards the association of labour, so it is with the concentration movement and the other movement towards decentralization or diffusion. The latter aspect is hardly less important than the former. When we find in the iron and coal industries, for instance, special trading companies being formed in connexion with the big producing firms, this may of course be treated as an example of a tendency towards association with the wholesalers, but it is really just as much a sign of a tendency towards

decentralization. This is still more the case where special buying companies are formed, e.g., in the glue industry or in various branches of the spinning and weaving industries. The clearest case of all, however, is the formation of special finance companies in connexion with a productive enterprise — which in the textile industry are often associated with a buying company (Dierig, Simon, Blumenstein and the rest). These special buying or finance companies are formed among other things to take over from the parent company the risk of exchange fluctuation affecting the price of its raw materials. In other cases, e.g., the finance companies connected with the big coal and iron undertakings (Krupp, Phönix, the Mannesmann Works, and others), this decentralization of economic activities aims partly at providing capital, partly at organizing the market for the parent firm. Companies of this type on the American model have recently become increasingly common in the automobile industry.

Decentralizations of this kind are normally effected either for economic reasons connected with the general conditions of modern exchange, or else for political reasons. But their effects are generally confined to this or that firm and they thus attract less attention. It would be only a slight exaggeration to assert that with the various measures of concentration precisely the opposite is the case. The motives are here generally motives of private economy — the investment of War and inflation profits in the inflation period and nowadays technical requirements or the desire to save or to make higher profits. The effects of these concentrations, on the other hand, reach far beyond the circle of those immediately affected by them, since the mere weight of one concern which has grown large and powerful may be enough to change the whole conditions of an industry. In the following pages we shall deal exclusively with the concentration movement and its effects.

Authorities writing with an eye to the history of economic development have frequently used the term ‘concentration-movement’ to cover all modern associations, from the loosest cartel and concern up to amalgamations and trusts. But the expression ‘concentration’ is no more definite than ‘union’ or ‘association.’ If it is to be used at all, it is necessary to distinguish between the various kinds of concentration. Thus, for instance, technical concentration (*concentration of works*), the continued advance of large-scale production, the continuous replacement of

many small works by big and ever bigger ones, is quite a different thing from commercial concentration (concentration of marketing). Here, too, there are many stages on the road to monopolistic concentration (of marketing), all exemplified by different kinds of cartel or of monopolistic fusion. Again, the mere concentration of ownership which arises through one firm participating in another is still another kind; and another is financial concentration, which comes about through big capitalists, either banks or private individuals, organizing and controlling groups of firms or even whole industries through the power of their capital.

In this last case a further distinction might be made between financial control exercised through working capital, by merchants and banks, and that exercised through fixed capital, by industry itself.

Besides this it is customary to distinguish between vertical and horizontal concentration, the former being the linking-up of successive stages of production (integration), the latter of enterprises of the same kind or class. In both these cases, however, it once more appears necessary to consider whether the motives for the concentration are technical or commercial. Vertical concentration, in the form of integration of different stages *within one concern*, has in Germany made the greatest progress in the coal and iron industries, and also in the electrical and chemical industries. But if the term is to be taken to include the association of various stages of production in the same federations or associations, many textile cartels must also be taken into account, e.g., the close combination which exists between the necktie-material manufacturers, the necktie manufacturers, and the traders. In general, however, it is advisable to restrict the term 'concentration' to describe technical or financial union only.

The effects of a modern concern-formation and amalgamation movement radiate in all directions, affecting the relations between capital and labour, the conditions of credit, the stock and money markets, commerce, the relations between raw-material producers and manufacturers, the problem of trade crises, etc., etc. Still, it must be clear that not all these effects arise in connexion with every concern, and so any general statements are easily liable to take on the character of false generalizations. Having once made this reservation, we shall now go on to discuss in the following pages some of the most important of these effects, and above all to discuss the

question how far these formations make for progress in the organization of business activities. Now one large class of effects of concerns and fusions is simply that of large-scale business in general, only raised to a higher power; while another large class is analogous to that of monopolistic associations, since these concentrations hold so often a position of relative monopoly. In other words, concern-formation strengthens that economic power which the popular sociology of to-day is so fond of discussing. This does not perhaps affect the consumers so much as the raw-material producers and the workers and officials. What is important therefore is not the mere fact of association in itself — there are numberless small amalgamations and concerns whose influence upon their trade does not differ at all from that of single firms — but the size of the concern or amalgamation relative to that of the other enterprises in the trade. If the size of a concern or of a single firm is overwhelming, it often brings its workers and officials — and also its customers and the traders who supply it — into a certain position of dependence on it; it acquires a quasi-monopoly position as against them. The extent to which these groups can shake themselves free of it depends on their own capacity to form monopolistic associations themselves. In the changes in the balance of forces and in the struggles for power that may ensue, there is nothing that is necessarily disadvantageous from an economic point of view. The better organized the two sides are, the sooner they will recognize that they are really dependent on one another and the sooner they will come to terms with one another. To go further into the social-political aspect of amalgamations and concerns would be trespassing beyond the limits of this work. This may however be said, that though the workers often feel an objection to them on account of the increased power which they afford to the employers, yet it is generally better for the workers in a firm that it should be absorbed into or amalgamated with another, rather than that the weaker works should be suppressed by way of the competitive struggle.

The effects of the increased power of the producers *as against the purchasers* show themselves above all in the changed relations of the concerns to the traders. The concerns will evidently show the tendency to try and exclude the wholesaler to a particularly marked degree. The operation of trading firms of their own by the big concerns and amalgamations is particularly frequent, but often this is a mere

decentralization of the tasks previously carried out by the firm itself, a special trading concern being set up for this purpose. The consumers are thus no doubt brought into a position of greater dependence upon the concern; but on the whole, the results of excluding the wholesale trader are probably advantageous to the consumer. We saw already how the big concerns within the cartels normally advocate reductions of price, since they are concerned above all with maintaining the full and regular employment of their plant, and provided this is achieved, can make profits even at lower prices. This consideration, it is true, has not always the same appeal. But in the big concerns of the iron industry, for instance, which include various stages of production, this factor of regularity is of quite extraordinary importance, since their interlocking works have to be kept more or less equally occupied.

In most German industries, however, even where there are concerns, the maintenance of a class of wholesalers with plenty of capital is still a necessity, both for the producer and for the retailer. A commercial domination of industry by the wholesalers, though not uncommon in the inflation period, now comes up against certain fairly narrow limits set to it by the cartels. The financial domination of the wholesalers, who were the first to realize how profitable it is in times of inflation to exhaust to the full extent all possibilities of obtaining credit, was one of the most important factors leading to the formation of concerns. To-day there can be no question that such financial domination is, generally speaking, a thing of the past. The question as to how far wholesale trade may in one or other branch of industry lose ground before the advance of industrial fusions or concerns, is not one which involves any fundamental economic problems.

A more important consideration is the appetite for expansion within their industry which is manifested by the big firms and concerns, the continual expansion of works and extension of their business into new branches of production. Here we do find a 'tendency to accumulation,' rightly remarked by the socialists, however one-sided their conclusions drawn from this observation may be. It is quite true that the formation of large firms and concerns is by no means always due to some particular individual's lust for power, but that their phrase 'impersonal capitalism' here has a certain measure of justification. There are concerns which owe their origin entirely

to one or more personalities, but there are also, so to say, impersonal concerns; one of these big organizations keeps attracting new masses to itself simply by virtue of its own mass. This is true both from the technical and from the financial standpoint. The great chemical trust has unlimited means at its disposal for making experiments, and even where inventions are not made in its own laboratories, it often gets the first refusal of them. In addition, its semi-monopolistic control of important raw materials and semi-manufactures induces manufacturers to seek to establish closer relations with the great concern (as has happened, e.g., in the varnish industry), or provides the trust itself with an inducement to keep bringing in more and more firms. Finally, after the great rise in price of its shares it was able in raising money to take advantage of a premium out of all proportion to the current German interest rates.

All these facts help to explain how it kept on expanding into new branches of the chemical industry. No general objection could be made against this expansion, from the standpoint of the national economy, since it furthered the most rapid application possible of new technical improvements. As I pointed out in my theory of trade crises, amortization of old capital takes place quicker with a large concern than with many independent producers in the field.

A less desirable feature of the big concerns, however, is their financial attractiveness. New capital flows into their coffers in abundance, whereas it becomes increasingly difficult for other firms to supply their requirements. But it by no means follows from this that those firms tend to be started which hold out the greatest promise of profit; quite on the contrary, the big concern's superfluity of cash easily leads it to make investments of capital which are not particularly economical. Big mistakes in investment policy may be covered up in the huge figures of the big concern's trading; but for a national economy poor in capital as the German they constitute a serious loss.

The big concerns are able to *finance themselves* to a very considerable extent, and this greatly facilitates their expansion, especially if profits really are high, so that at any rate the old shareholders, who bought their shares cheap, get a satisfactory yield. And big firms and concerns are likewise in a position to cut their shareholders' dividends temporarily in the interests of internal capital financing, and with the present lack of capital in Germany this is a necessity, if the big firms are to remain

capable of competing in foreign markets. Still it is not desirable that in this way large sums should be withdrawn from the general capital market; it makes credit dearer to the smaller and medium-sized firms and renders the financing of new enterprise difficult.

The ease with which big concerns find capital, and the chance which this capital gives them of carrying through such rationalization as seems necessary to them, will probably for a long time to come be one of the principal inducements to further concentration and concern-formation in German industry.

In spite of all this capital accumulation, the personal factor in the formation of concerns should not be overlooked. It must be evident that concerns and fusions enormously increase the power of the directing personalities; and even in these big agglomerations the personal talent of one or another often, though not always, plays a large part, both in their origination and in their direction. On the other hand, personal factors often prove the most serious obstacles to fusion, less so to concern-formation. The leading personalities, even where they are not owners, but merely salaried managers, or interested through some small holding in a firm, refuse to give up their independence or their leading position or even their special connexion with some particular firm, established through long years of service. In the case of firms that have long been in the possession of one family the feeling against being merged in another firm or even against being linked up in a concern is naturally stronger still. Unfavourable economic conditions, financial difficulties in particular alone enable these obstacles to be overcome. In any case there are just as many concerns and fusions, which owe their existence primarily to objective considerations, to the force of circumstances, often to the sheer lack of dominant personalities, as there are others which originated out of personal considerations, out of the energy of this or that personality.

Seeing that many big concerns, and among them the very biggest, do not owe their origin to any specially big personality, it is not to be wondered at that in their later stages of development these vast complexes of undertakings easily get into a bureaucratic groove. Cartellization has often prepared the way for this development, since the cartel structure itself involves a tendency towards bureaucratization and schematization, to the limitation of the independent activity of the undertaker. In big

concerns this is still more the case.

Even before the War a question was being discussed — whether this trend towards the formation of concerns, fusions and trusts, as well as cartels, should be regarded as a further step towards establishing the *predominance* of ‘mobile’ capital, to which there was a strong opposition on political grounds; and also what part the big banks played in this movement. I have always done my best to refute the one-sided idea that the banks have any position of predominance over our whole economic life, and no one to-day can seriously maintain such a contention. The influence of the banks over German industry has kept diminishing; and while this is partly because their capital power has grown less — a factor which may alter again — yet there is certainly a strong tendency in the big concerns to make themselves financially independent, to open ‘concern-banks’ of their own. Besides, the big concerns are hardly ever connected with a *single* big bank only, as was often the case formerly, even with really important firms.

But one point is worth noticing — that all this has extremely little to do with the ‘impersonalization of capital.’ It is quite true that ‘share capitalism,’ the extension of joint-stock enterprise, is on the increase and will increase still further. There is certainly a danger inherent in vast agglomerations, and in the great expansion of stock exchange speculation and the like which accompanies them. But if it once be granted that the development of larger and larger working units is necessary both on commercial and on technical grounds, the share system is actually likely to secure a better distribution of income. If the capital of the big firms were not derived from shares, then there can be no doubt that the resulting distribution of profits would be extremely undesirable from the point of view of the national economy. I am not of course pretending that modern share capital does invariably secure the best possible distribution of profits — this depends of course on the distribution of ownership — but it alone provides the possibility of dividing up these profits among a large number of persons. On the other hand, it is not to be denied that great dangers are involved in such mobilization of capital — the spread of pure rentier income, such as was formerly enjoyed only by owners of real estate; the violent fluctuations and movements of property which are involved in the system of easily transferable capital; the wild speculation connected with it; the increased possibility which the

share system provides of the fraudulent exploitation of individuals, etc., etc. Still, for a modern State, these dangers do not seem to me to be insuperable by wise economic policy. The undeniably increased 'democratization' of Germany during the War, the greater publicity which is becoming the rule, even in the administration of big firms, should be able to avert any danger of the German national economy being exploited by injurious large-scale capitalist formations. It must however be emphasized that our economic system before the War in many respects — e.g., company law, insurance, taxation, and, not least, the cartel system — was far more democratic than that of our enemies, who barely managed to disguise, by means of certain superficially democratic constitutional forms, the actual autocracy of money and used the language of diplomacy to hide a much worse capitalistic exploitation of the workers.

In all countries, and notably in Germany, the big firms and groups are subject to public control to a far greater extent than was formerly the case. In every country efforts are being made to improve company law with a view to satisfying the public interest in the better management of the big concerns as far as possible. For twenty years I have been making repeated proposals for improvement in this direction, especially in respect of the balance-sheet regulations. These improvements should aim above all at securing more detailed balance sheets — especially better data as to the shareholdings of companies — an obligation to publish the balance sheets of subsidiary companies at the same time, a distinction between revenue from the company's own activities and that derived from its participations in other companies. The authorities of the Stock Exchange, by their power to scrutinize companies on admission of their shares to public dealing, have in some cases achieved something in this direction, while in other cases they have contented themselves with quite insufficient data. This requirement of absolute perspicuity of balance sheets is far more important than the much-discussed proposals for introducing all sorts of innovations and foreign institutions in connexion with the share system.

There is, however, still one point which must be emphasized particularly: in spite of all the present monopolistic organizations, the prices charged are still quite generally fixed by the process of free exchange. Even the prices of monopolized products are altogether dependent upon those of the great mass of goods in common

use, which prices are fixed by open competition. The formation of monopolies and concerns does not, as a rule, affect goods of primary importance; it affects only a few consumable commodities of a rather special kind. As long as the most important class of commodities, viz. the agricultural, is derived from a very large number of independent producers, there will necessarily be a large number of independent dealers for almost all commodities, whether monopolized or not. Again, as long as the consumers do not form one uniform demand — a demand perhaps prescribed by the State — but on the contrary are obliged to satisfy their very various wants according to their incomes, the prices fixed by big fusions and concerns, by cartels or trusts, even by compulsory monopolists, cannot differ greatly from those which would obtain in the ‘open market.’ These prices cannot be greatly influenced by ‘bargaining power,’ because they are altogether dependent on and embedded in the one general system of prices, which is determined by the different producers’ desire for profit and the different consumers’ calculations of comparative utility and cost; all of which is explained by the Law of Marginal Yields. It is thus also quite a mistake to suppose that the fact that the amalgamation and concentration movement to-day often leads to the formation of monopolies proves anything at all as to the possibility of ‘socialist industrial accounting.’ Such a notion can arise only from a type of economic theory which fails to realize that the sole organizing principle of exchange is desire for profit, and so imagines the limitation of competitive warfare through monopolistic associations and amalgamations to be a fundamental alteration of the traditional economic system, whereas, on the contrary, this is just a natural result of the above-mentioned ‘organizing principle.’

To-day the whole concentration movement still derives its force from the one sole mainspring of individual desire for profit. Different organizations satisfy this appetite either directly by means of price and profits agreements, or indirectly through specialization and integration of activities, distribution of risks, and the like. It is, above all, this last motive, itself derived from the desire for profit, which is most to the fore to-day and which for its satisfaction makes use at one time of the various forms of concern, at another of cartels or trusts. In all this the German economic system is only following, under the changed conditions of the post-War and ‘peace’ treaty period, the path which it had already mapped out for itself before the War.

This path was, in my firm belief, the path of economic progress, and in this respect Germany before the War was in the vanguard of the nations.

England's economic system was internally too conservative, and externally too much absorbed in the development of its vast colonial territories; America's economic system was too young, and seriously impaired by a defective legal basis (in respect of its company law, etc.); that of France was somewhat sluggish. 'Germany as the result of the War has lost her leading position in respect of organization' — these were the words I wrote in the sixth (German) edition of this work; but I may now add that she is well on the way to regain this position. The fact that the big German industrial concentrations of the last few years have been copied by the industries of other countries is too obvious to be disputed; even the International Steel Ingot Syndicate was based to an overwhelming extent on plans of organization that had been worked out in Germany.

Part VI: Trusts Or Monopolistic Concerns.

Chapter XXXIV: Nature and Origin of the Trusts.

In this book we have hitherto described two different lines of development, viz. the tendency towards the formation of monopolistic associations, and the other tendency towards the formation of great industrial complexes or concerns. The Trust is the organization in which these two lines of development converge.

The Trust, in short, may be defined as a monopolistic concern, and must be taken to include, as things are, the complete fusion of firms, or *monopolistic merger*, since a firm formed by monopolistic merger is, at the same time, as the example of the I.G. Farben-industrie shows, normally the head of a concern, which comprises numerous daughter companies and other subsidiaries.

The essential feature of the trust is its monopolistic tendency, and it is only in this respect that any comparison between trusts and cartels is possible. As with the cartels, this monopoly need not be an absolute one. The trust, however, is a financial agglomeration, and so represents a far more intimate form of union than the merely contractual one of the cartel. This financial agglomeration may proceed either by way of an *amalgamation*, by which the former undertakings are completely absorbed, or by way of a *holding company*, where a single new company acquires the majority of shares.

Now amalgamations and holding companies need not necessarily be monopolistic in their effects; they may simply effect a union of some few of the many firms that are competing with each other in a given trade. But where such a company has succeeded in bringing together in one form or another the great majority of the firms which were previously in competition with each other, so that the merger or the

holding company has a monopolistic position, monopolistic association has achieved the most solid and durable structure of which it is capable. This method abolishes competition not simply by the agreements and contracts of the cartels; the individual desire for profit, which must persist in some degree as long as the individual firms retain any degree of independence — since they invariably regard every order secured by another firm as a chance of profit that has slipped through their own fingers — now disappears altogether. Unlike that of the cartels, which rest upon a purely *contractual* basis, the trust's monopoly position is based on joint ownership; and this form is capable of producing much more intensive economic effects than the looser and more complicated organization of the cartel. This fact makes it desirable to find a special name for such monopolistic organizations as go beyond the mere agreement of the cartel; and it has become customary in Germany to reserve the name of 'trust' to such monopolist companies as have arisen out of the association of a number of firms in one of the two forms described above. The name is derived from America, where monopolistic associations of this kind first originated, and where they have been most numerous. Unlike the cartel, which is simply a contractual association of firms who still retain their independence, the trust is one firm, formed by the fusion of a number of firms into one firm holding a monopoly position. If, however, it were desired to maintain strict scientific accuracy, then it would be better to avoid the word 'trust' altogether, and speak of 'monopolistic merger' or 'monopolistic holding company,' according to the type of structure we happen to be discussing.

The notion of Trust in this sense of the word derives from America. Here the cartels found their legal position extremely insecure. They looked around for some other form of combination which promised them better legal security, and finally found this in the English legal notion of *Trust*, the administration of property by *trustees*. The essence of the trust is, that it hands over to an administrator, the trustee, the administration and disposition of property, without giving him the actual ownership of it. This old Germanic conception of the trustee has long been employed both in England and in America for the administration of such things as the properties of minors, of associations, of bankrupts and the like. More recently it has been applied to the securing of the interests of debenture holders in railway and other

companies; and modern German law has now reintroduced the old German institution of trustee (Treuhand) to secure the rights of the mortgage bondholders in mortgage banks and for various other purposes.⁴⁸

In America the middle of the nineteenth century saw the first joint-stock companies specially formed for the purpose of such trustee administration — the so-called Trust Companies. These were originally intimately associated with insurance business, but since they were entrusted with the administration of properties and received in this capacity large sums of capital, by degrees they developed into deposit banks.⁴⁹ And whereas the other American banks, the National and State Banks, found their business activities seriously restricted by current legislation, the Trust Banks were able to develop freely, and finally came to undertake every sort of money and credit operation with the one exception of the issue of notes, which was reserved to the National Banks. Thus to-day their trustee functions are only one of the many-sided activities of these banks.

Another form of trust institution is the '*voting trust*.' This consists in the transfer to trustees of the voting rights arising from the possession of shares. In America it is possible to detach the voting power from some particular category of shares or debentures, and transfer it without transferring the shares. Such a transfer of voting power to one or more trustees is often employed as a means of giving them control.

So it was that in the year 1881 an ingenious lawyer, Mr. S. C. T. Dodd, had the happy idea of employing the legal institution of the trust, which had already been tried out for other purposes, so as to establish unified management in the oil industry. Here, it is true, a single individual, John D. Rockefeller, had already managed to secure for himself a predominant position in the industry, or at least had secured such a position for the company he directed. In a cartel of the oil refineries established in 1872 the Standard Oil Company of Ohio already took a leading part, and in 1879 part of the capital interested in the oil industry was put under the unified control of three trustees, one of them being Rockefeller. But it was not till the Standard Oil Trust was formed in the year 1882 that the monopoly position of himself and his allies was really assured. The shares of all the firms participating, to the number of forty-six, were handed over to the Board of Trustees, a committee of nine persons of whom Rockefeller was the chief, the Board issuing trust certificates in their place.

Subsequently in the course of the eighties a number of other trusts, notably those in the sugar and spirits industries, were founded on these lines.

The American national economy soon began to feel the effects of these new monopolistic associations. It was observed that apparently independent firms pursued a uniform policy and that all competition between them had been eliminated. The obscurity in which the trusts were veiled did a great deal to make public opinion suspicious. In addition, people soon began to realize that the methods employed by the founders of the trusts to achieve their ends were often of an extremely violent character, including ruthless underselling of competitors, bribery, and dishonest practices of every kind. The reports of several commissions set up to investigate the effects of the trusts finally led to *anti-trust legislation* in many states of the Union. These laws, which frequently aimed at making any moderately large amalgamation impossible, in spite of the draconian character of most of them, remained entirely ineffective in practice. The trust form had to be given up, but new means of attaining the same end were soon found. Some of the trusts, e.g., the Sugar and Spirits Trusts, formed themselves by way of complete amalgamation or fusion into one company, i.e., the various constituent firms were all absorbed into one new firm and ceased to exist as independent economic units. Most of them, however, after various experiments, have recently adopted the form of the so-called Holding Company, or Control Company, as we shall call it, a company formed to acquire either the entire capital or a majority of the shares of all the companies belonging to the trust. The directors of the holding company thus controlled all the subsidiary companies, which did not however cease to exist, but which were held together financially through the control company's possession of their shares. The formation of such companies was made possible by the fact that some states, far from associating themselves with the drastic legislation directed against the big corporations, did all they could to encourage the foundation of such corporations within their territory for the sake of the high duties which they levied on them. Thus the great combinations no longer took the legal form of the trust, but from an economic point of view their effects were precisely the same as before; thus the word 'trust' was still invariably used to describe the big companies, except in their official titles.

But whereas the original trusts were all founded with a view to exercising a

monopoly, this is by no means always the case with the organizations which are now commonly called trusts. It is quite possible for a number of firms to come together to form a single company without having any *monopolistic* aims in view, but simply with a view to eliminating competition among themselves and to competing more effectively with third parties through the resulting reduction of costs. In the same way a Holding Company may be formed merely for the sake of bringing together *some* of the firms in the trade, and innocent of any monopolistic intentions.

Both of these changes have taken place on a very large scale, expressing the modern tendency towards big firms under unified direction, so that most of what are now called trusts are not monopolistic organizations at all and so cannot be compared with the cartels, which are invariably monopolistic.

How then did fusions which were not of a monopolistic character come to be called trusts, in spite of the fact that their effects were bound to be quite different from those of the old monopolistic trusts? That is easily enough explained. A cartel which has no monopoly position is nothing, is a mere paper association; but the union of a number of firms by amalgamation or by way of a control company has the most serious economic effects on the outside world even where it does not possess a monopoly. Now the most important effects of the American trusts are in no way connected with their monopoly position, but show themselves in connexion with the flotation, financing and management of big companies, i.e. even where a company of this kind has no monopoly. And, as has been already observed, few of the so-called trusts in America have any monopoly. There can be no doubt whatever that the development of monopoly organizations has made further progress with us than in America, that competition has been eliminated or restricted to a greater extent and in a greater number of industries in Germany than in the United States. On the other hand, in spite of all the fusions and integrations which have taken place in Germany in recent times, the process of linking up firms by way of a merger or holding company has gone further in America than with us, or indeed in any other country.

Many American trust statistics, it is true, must be taken with a grain of salt. In 1900 there were said to be only 185 monopolistic trusts with a capital value — including plant and stocks — of 1,500,000,000 dollars, but with shares to a nominal value of more than 3,000,000,000 dollars. Thus the number of monopolized industries is

certainly less in America than in Germany. In 1907 there were said to be 250 monopolistic trusts with an issued share capital of some 7,000,000,000 dollars. If, however, we take a trust to be any amalgamation of firms or association of two or more companies in a holding company, as is often the case in common parlance, then the number of trusts must evidently be put much higher. In this sense, i.e., when we leave all consideration of monopolistic character out of account, the concentration movement — to use the vaguest and most general term available — has certainly made very great strides in the United States. Even in 1913 there were said to have been 12,000 holding companies with a total capital of 10,000,000,000 dollars.

It may be asked why such amalgamation has been so extraordinarily widespread in the United States? The reasons for this development are to be found in the fundamental characteristics of the American national economy. This has developed at a far greater pace than in the progressive countries of Europe, and whereas in Europe the modern big firms both in industry and trade have almost all of them had small beginnings, in America they were far more often planned on a big scale from the start. With us in Germany — and the same is true of England, Belgium, France and Austria — the private firm is still the commonest type of company, and large-scale business, even where it is clothed in the legal forms of the joint-stock company, is even to-day frequently in the hands of a few persons or of a family. This holds good even for those branches of industry — other than banking and insurance — in which the joint-stock form of enterprise is most widespread, e.g., the German iron and steel industry, with the family firms of Krupp, Haniel, Thyssen, Stumm, Röchling, Funke, Henschel, Borsig, etc. In America the joint-stock form is far commoner in all branches of enterprise, not merely industrial — including the transport system, which is entirely in private hands — but also commercial and even agricultural enterprise with its various subsidiary industries. Nine-tenths of the product of American industry comes from joint-stock enterprise, and these employ 86.7 per cent of the American workers. Now it is easy enough to observe, even in Germany, how much more readily joint-stock companies coalesce with one another than private firms, since the private industrialist's intense personal interest in his own works is absent in their case. And the amalgamation of joint-stock firms is rendered particularly easy where their shares are put on the open market and can at any time

be bought up. Thus the commonest form of association is where some party gains control by acquiring a majority of shares. And this process is still further facilitated in America by the almost universal practice of dividing capital into preferred and ordinary shares and giving voting rights to one of these categories only, so that possession of half the shares with voting rights gives control.

Every American joint-stock company is in actual fact controlled either by a single person or by a small group of persons, and these dominant personages also normally fill the Board of Directors and have the management of the firm in their own hands. In the American corporations there is, as a rule, far less of a hard-and-fast distinction between Board of Directors and management than there is between the functions of Chairman and Managing Director in a German company. The circumstance that almost every American firm is dominated and managed by a group, usually quite small group, of controlling shareholders involves very great risks and disadvantages for the bulk of the smaller shareholders. The big men invariably exploit to the full the better and earlier information they have; for instance, they unload their shares in time whenever an unfavourable balance sheet is expected, they speculate in the firm's shares and often influence artificially the profits of the firm and the quotation of its shares in the interests of their own speculative dealings.

In America, company legislation is a matter for the individual state, and many states, attracted by the large sums which fall to the state in duties on the flotation of a company or under pressure of the influence exerted by the powerful financiers and company promoters, have made the flotation of joint-stock companies extremely easy. There is hardly a trace of any of those provisions for promoter's liability or the publication and official examination of balance sheets which Germany has laid down for the protection of shareholders. And corporations thus established in one state are enabled by the provisions of Federal Law to trade in any of the other states. The extreme freedom of the share system proved useful for the purpose of abolishing competition in one branch of trade after another. The chief method by which this aim was accomplished was, as has been said, that of the *Holding Company* , a company for holding or controlling share capital of other companies. The property of such a company consists solely in the shares of its subsidiary companies, in each of which it owns at least half of all the shares that have voting rights. Individual instances of

holding companies may be traced back to the seventies, the first apparently being that of the Pennsylvania Company of 1870, which got control of a large part of the capital of the Pennsylvania Railroad Company. In 1880 the shares of a large number of subsidiary companies were acquired and pooled by the American Bell Telephone Company, and so on. But it was not until the nineties that this method was commonly employed for the purpose of bringing a number of companies under unified control, especially in the field of railway transportation.

However, the anti-trust legislation of the various states soon turned its attention to this form of amalgamation, and in many cases prohibited altogether the acquisition by one company of shares in another. At the same time other states did their utmost to facilitate the formation of these holding companies, so as to attract them to their own territory. The development of holding companies took on enormous dimensions when in the year 1893 a law was passed by the State of New Jersey allowing companies to be formed without any other object than that of holding the stock or collecting the dividends on the stock of other companies. They have merely to take an office in New Jersey, put up a plate and send in a report. This at once led to the incorporation in New Jersey of innumerable companies which were thereupon allowed to trade in all the states of the Union. In New Jersey there are buildings in each of which more than a hundred companies have their domicile, with some porter or other to act as their joint 'director.' The 'amalgamations' and 'combinations' brought off by American financiers in the course of the last few decades run into the thousands.

As has already been mentioned, cartels between the big American concerns are not uncommon either, but they are of a quite informal character and do not come out into the open at all. When after the War the courts came to deal more severely with the monopolistic organizations and in 1921 in one case actually imposed a penalty of several months' hard labour for breach of the law, a form of cartel was tried and has recently become common in which there is no sort of agreement either written or verbal. These are the so-called 'Open Price Federations,' which according to the 1921 statistics of the Federal Trade Commission included 141 price-agreements and 376 combines of a looser character. This organization requires each member to send in regularly to a central office exact details as to sales and purchases effected, prices,

quantities produced, stocks, etc. This information is then sifted and redistributed to the members, each of whom is at liberty to act as he thinks fit on the basis of the general view of the economic situation he thus acquires. This plan of so-called 'co-operation' has likewise been declared null and void by the courts.

Some short observations on the Russian so-called 'Trusts' may here be in place. The State Trusts of the Soviet Republics are public authorities, organs of the State directorate of industry, the Supreme Economic Council, to which almost the whole of Russia's large-scale industry is subordinated. Their title of 'trust' is only justified in that they are not owners of the factories they manage — for these belong to the State — but are trustees for the State in the original sense given to the term in English law. They have, however, nothing to do with the modern economic conception of 'trust,' since they have no monopoly position; on the contrary, there are in most industries quite a number of trusts, some with horizontal and some with vertical agglomeration of works. The latter type they call 'combinate' (integrations). The amalgamation of works into 'trusts' is determined according to the good pleasure of the Supreme Economic Council and is often extremely arbitrary. At the end of 1923 there were in all 430 'trusts' in twelve different branches of industry, with 4,144 works and about 1,400,000 workers (at the end of 1924). The trusts in the same branch of industry are further grouped to form syndicates, which are not, of course, free associations for the purpose of effecting monopolistic regulation of the market, but statutory joint organizations of the trusts with the principal duties of procuring raw material and exploring marketing opportunities. At the end of 1924 the largest syndicate, that of the textile industry, comprised thirty-eight trusts, with 406 plants and 227,529 workers. In 1927 these trusts were reorganized and made financially independent. They acquired legal personality and their liability is confined to their own property. They are now, in fact, state-chartered concerns which may be founded by anybody who wishes and may pledge their credit with the consent of the State. This involves a departure from state socialism in the industrial field as well as in the commercial. Attempts, it is true, have recently been made to reintroduce a greater degree of centralized control of the 'trusts' for the sake of the new Five Year Plan.

Chapter XXXV: A Few Examples of American Trusts.

Of the big trusts which thus grew up in the most various fields of business, it was the Oil and Steel Trusts above all whose fame extended to Europe. The 'Standard Oil Trust' is merely the popular name for a concern which comprises some five hundred companies in all countries of the world and whose founder, John D. Rockefeller, is still living. He was a small accountant when in 1862 he allied himself with a workman named Andrews, who had invented a new process for refining petroleum. In 1867 the firm joined up with four others; in 1870 it blossomed out into the Standard Oil Co. of Ohio, with a capital of 1,000,000 dollars; and in 1872 a cartel, the so-called 'Alliance,' was concluded between the Standard Oil Co. and its principal competitor. At the same time Rockefeller, after getting control of several railroads, was beginning to buy up a controlling interest in the pipe-line companies which had meantime been forming. In 1879 the six members of the Alliance were joined by another seven, and in 1882 these and a further six companies were formed into the Standard Oil Trust, which also held a controlling interest in other twenty-six companies.

The anti-trust legislation compelled the Standard Oil Trust to dissolve itself in 1891 into twenty apparently independent companies, with a total capital of 200,000,000 dollars. But Rockefeller, with a few associates, managed to retain control, and in 1899 these twenty companies and fifty others with them were brought together by one of the original firms, the Standard Oil Co. of New Jersey, which took over the shares of all the rest by raising its own capital from 10,000,000 to 100,000,000 dollars. On the basis of the actual capital of the constituent companies

at the time the new concern was over-capitalized by about 30 per cent, but the value of its capital increased enormously in the course of the next few years as the profits of each year were reinvested. In spite of this reinvestment the rate of dividend rose continuously up to the year 1910, amounting on an average over the first ten years of the century to about 40 per cent, while in many years the actual net profit realized reached a figure exceeding 80 per cent of the capital.

In 1907 the profits are said to have been over 300,000,000 dollars, whereas the market value of the shares of the Standard Oil Company was 675,000,000 dollars in 1913. In that year the trust was dissolved by the courts — it had already been condemned only a few years before to pay a fine of 29,000,000 dollars, but this judgement was never executed. It thereupon made a show of dissolving itself into thirty-three independent companies, but these were in fact under unified management. The Standard Oil Co. of New Jersey continued to exist, though not as a pure holding company, since it owns among other things the largest refinery of the concern. John D. Rockefeller, the founder of the Trust, who is still alive, then owned 24,770,000 of the 100,000,000 dollars of capital; the majority of the shares were in the hands of sixteen persons, but Rockefeller's holding had the decisive voice in the direction of the Trust. The share capital has now passed into a number of different hands, but no one doubts that the Standard Oil Companies still form one concern.

The Standard Oil Company has organized the further stages of manufacture and the marketing of its products in all parts of the world in a way that is worthy of our admiration. It owns railways, pipe-lines and tankers of its own, has oil tanks and wagons in all countries of the globe, and refineries of its own in many of them. Everywhere it has organized its selling right down to the retailer on lines corresponding to the special conditions of each country. It itself produces all the accessories needed — all the casks, cans, pumps, and distilling apparatus — and also works up all the by-products. With its most important European competitors, the Russian, Roumanian, English and Dutch producers, who are themselves largely organized in great cartels, it has from time to time concluded secret agreements for the supply of particular countries, while in other countries it competes with them through its subsidiary companies, of which the Anglo-American Oil Co. of Great Britain and the Deutsch-Amerikanische Petroleumgesellschaft in Hamburg are the

most important. Only occasionally and for short periods at a time was there any sign of real competition between them. The owners of the Trust undoubtedly also have large participations in many of the European concerns.

In 1919 the group had to come out on the open market for the first time, and through the intervention of Morgans, who received a commission of 1,000,000 dollars on the operation, placed 100,000,000 dollars worth of 4 per cent preference shares on the New York Stock Market. Since that date detailed balance sheets have been published, at any rate by the most important of the American companies.

At the end of 1922 the Standard Oil Co. of New Jersey distributed a bonus of 400 per cent in shares, thus quintupling its share capital. It now totals 507,500,000 dollars ordinary shares and 200,000,000 dollars worth of preference shares. At the end of 1925 the market value of the former was more than 850,000,000 dollars and of the latter 234,000,000 dollars.

The second largest company of the concern is the Standard Oil Co. of New York with a nominal capital of 375,000,000 dollars. Then come the Standard Oil Co. of Indiana with a capital of 224,000,000 dollars nominal, but 570,000,000 dollars market value; and the Standard Oil Co. of California with a capital of 235,000,000 dollars nominal and 536,000,000 dollars market value.

The total capital value of the thirty-one Standard Oil Companies, which are all that remain of those originally united in the Trust, was estimated at the end of 1925 at about 4,000,000,000 dollars, as against a total capital invested in the American oil industry of about 9,000,000,000 dollars (estimated). The nominal capital of all the Standard Oil Companies taken together was about 2,000,000,000 dollars and the total of dividends paid by them in 1925 about 130,000,000 dollars. It must be borne in mind that the concern owns a very large number of foreign firms, the value of which is not included in the above figures.

The Standard Oil Group is, however, no longer by any means the largest concern in the United States. The biggest is generally considered to be the Morgan Group, with the firm of J. P. Morgan and Co. (the son of the original Morgan) at its head. This firm, which enormously strengthened its position and increased its capital value during the War by representing Anglo-French interests in America and financing the American loans of these allies, was even before the War, according to the report of

the United States Congressional Committee on Banking and Currency, in control of firms worth 22,250,000,000 dollars, or about one-fifth of the total national wealth of the United States. And the firm had in addition eighteen other companies and private firms intimately allied with it, these together holding 746 seats on the Boards of Directors of 134 different companies and controlling some 40,000,000,000 dollars of capital. Of this sum some 15,600,000,000 dollars were invested in industrial undertakings and so-called 'Public Service' Corporations, 17,300,000,000 dollars in railways, 4,000,000,000 dollars in banks and financing companies, 1,500,000,000 in mines and oil, and 1,300,000,000 dollars in sundry other undertakings. Any one who is familiar with the economic and above all the *political* influence exerted in America by these tremendous concentrations of property is amazed to hear Americans maintain that their country is a genuine democracy.

One of the best-known flotations of the House of Morgan was that of the Steel Trust, the United States Steel Corporation. It originated in 1901 through old J. P. Morgan buying up one after another a number of large steel works, most of which had already got control of or had amalgamated with smaller firms in the iron industry, in coal and iron-ore mining, in the transportation system, etc. The principal company was the Carnegie Steel Company of New Jersey, which itself controlled twenty-six subsidiary companies. The beginnings of this firm, which was at that time the largest⁵⁰ individual concern in the American iron industry, are to be discovered in a little smithy, fired by wood, in Alleghany City, which was founded in 1858 by two Germans, the brothers Andreas and Anton Klomann, with 1,600 dollars capital. Andrew Carnegie, who like J. P. Morgan had made a fortune out of the Civil War, through contracts for war material, came into the firm later on. Carnegie, like most of the other American trust magnates, knew nothing of engineering, but was merely a trader, or rather a speculator on a large scale. On passing to the Steel Trust the Carnegie Works had a capital of 160,000,000 dollars worth of shares and debentures to the same amount, with Carnegie owning rather more than half; this capital was exchanged for 500,000,000 dollars worth of Steel Trust shares. Twelve other companies, owning some 150 subsidiary companies, came into the Trust at the same time, among them no less than 24 railroad corporations. In 1919 the Trust comprised 144 works with 124 blast furnaces. In 1925 it counted 152 works, among them 25

smelting works with 369 electric and other furnaces, 622 rolling mills, 76 wire rolling mills, 60 tube works, 35 ocean-going steamers, 104 inland navigation steamers, 392 river barges and lighters. The productive plant is valued at 1,661,000,000 dollars. The capital of the Steel Trust is now put at the huge sum of 813,000,000 dollars ordinary and 360,000,000 dollars preference shares, 418,000,000 dollars holdings in subsidiary companies, and 456,000,000 dollars of debentures, i.e., about £300,000,000 at parity. The dividends on both categories of stock were invariably at the rate of 7 per cent, during the last few years. In 1901 the Steel Trust had 13,318, in 1921 95,777 and at the end of 1928 154,243 shareholders. Many critics inclined to the view that the Steel Trust with its capital of almost a thousand million dollars must have been over-capitalized, yet this is not the case, since between 1902 and 1905 its net profits were 133, 109, 73, and 120 million dollars, i.e., ranged between 7 per cent, and 12 per cent of its share capital. Its highest net profits were those of the War years 1916 and 1917 — 333,000,000 dollars and 295,000,000 dollars respectively. In 1914 in all the various works of the Trust taken together there were 179,353 workers employed and these received some 162,400,000 dollars in wages; in 1920 the figures had risen to 267,345 workers and 581,600,000 dollars wage-bill. (For comparison, Vereinigte Stahlwerke A.-G. employed in that year 172,600 workers and officials, paying them 515,000,000 marks in wages. But the average daily wage in America was 24s. 5d., that in Germany about 9s. 1d., at par of exchange.)

The Steel Trust cannot be said to have a position of monopoly; in its earlier years it was responsible for only about 60 per cent of the steel production of the Union, and only about 40 per cent of the raw steel production. Its share in the total production has grown less and less; there are now really three big steel trusts alongside of one another, and a complaint lodged against it in 1911 for alleged breach of the anti-trust laws was in fact dismissed on this ground. In 1928 the pig-iron production of the Steel Trust was 15,200,000 tons and its steel production 20,110,000 tons as against about 7,000,000 tons production of Vereinigte Stahlwerke. The Bethlehem Steel Company and the North American Steel Company each produce something over 5,000,000 tons. These two companies in 1919 united with a number of smaller companies to form the Consolidated Steel Corporation with

a capital of 10,000,000 dollars to promote the export of their products, while the United States Steel Corporation maintains for this purpose the United States Steel Products Company.

For individual products agreements have frequently been concluded between the Trust and its competitors, and renewed in periodical conferences, the so-called 'Steel Conference' or 'Gary Dinners.' The Trust has done extremely little to improve the condition of its workers. It is true, it has tried to interest its workers in the undertaking, by giving them a few shares, but its welfare provisions are extremely exiguous, as is the case with most big firms in America. Of the 173,000 American steel workers before the War, 50,000 had to work for twelve hours a day on seven days in the week, and 43 per cent of the workers for twelve hours a day on six days in the week.

One example may be given of a trust which has an absolute monopoly, the Aluminum Company of America. Founded in 1889 as the Pittsburgh Reduction Company with a capital of 20,000 dollars, its share capital before the War amounted to 19,000,000 dollars, but the net profit was frequently 80 per cent of the nominal capital. Its plant, which was mainly built up out of profits, is said to-day to be worth some 200,000,000 dollars. The Company, whose patents ran out in 1909, has simply bought out new competitors as they arose, and now owns a Canadian factory, the Northern Aluminium Company, and the Norwegian Norsk Aluminium Company. The Aluminum Company of America, led by the politician Andrew Mellon, now Secretary of the Treasury, possess and exploit to the utmost a monopoly position secured by high tariffs, in a way probably unparalleled in any other country of the world, at least in so important an industry. This shows how ready the American people are to put up with the extremes of monopoly exploitation, provided the organizations concerned can manage to acquire and maintain sufficient political influence.

Chapter XXXVI: The Effects of the Trusts.

Space does not permit us here to cite further examples from the American trust movement; we shall now attempt to draw some general conclusions as to its significance and value. The greatest successes and the greatest economic advantages of the movement towards large-scale units of production, towards amalgamation and association through holding companies, have been achieved in respect of the reduction it has brought about in the costs of production and marketing. There are many different ways in which amalgamation may result in cheapened production. In the first place, production can be confined to the most efficient and best-equipped works, these being worked to full capacity, while the less efficient are closed down. The Whisky Trust, for instance, on its formation went so far as to close down sixty-eight of the eighty distilleries which had come into the Trust, producing the whole output from the remaining twelve. The trusts have also been especially interested in the standardization of production, confining themselves to a few types only and thus greatly facilitating the organization of mass-production. The competitive power of American industry is largely due to this fact. The cheapening of costs of production, by making a better use of productive capacity, in its turn leads inevitably to a great saving in overhead charges. The trust is also enabled to effect great economies in labour. The dismissal of large numbers of workers both by the trusts and by all other large amalgamations is thus a very frequent occurrence, this effect being observable also in the case of our own amalgamations in banking and in the electrical and iron and steel industries. But the trust, being a monopolistic undertaking, can eliminate a whole number of other costs, which in a state of open competition have to be borne

by each of the competing firms. Thus the number of travellers and agents which a trust employs is generally far smaller in proportion to its turnover than that which individual competing firms would have to employ, with the result that the economic prospects of this class of persons in the United States have grown very much worse, and the level of their salaries has been seriously depressed by their severe mutual competition. The trust's advertising costs too are usually less; in any case the individual firm's incentive to outdo its competitors in this respect is eliminated. The monopolistic trust, being the sole concern in its own trade, often finds itself in a position of buyer's monopoly as well, at least in cases where it is the sole consumer of some raw material. But even part from this its large consumption of raw materials and accessories enable it to purchase these cheaper than the individual firms could do.

The fact that the trust, without any rise in prices, is able to offer its members higher profits than they would otherwise get, may also be considered as a point in its favour. It can do this simply through the reduction it effects in cost of production. Thus it is commonly asserted that the fabulous profits of the Standard Oil Company, which made its owner, Rockefeller, one of the richest men in America, were not due to any raising of prices, but solely to the tremendous cheapening of production consequent on rational organization of the trade. In general it is thought that the great American firms have gone considerably further than ours have towards achieving the greatest possible degree of rationalization of their trades. In this respect the trust is notably superior to the cartel, which increases the gains of its members only by raising prices, and not by reducing the costs of production.

Further, there is in the case of the trust the very great *saving in transportation costs* resulting from the fact that each of the member-factories can be limited to the supply of its own natural market. It is true that a solidly constructed cartel may also divide up the market to a certain extent. But here a unified firm is in a stronger position than the cartel, since it is under no obligation to ensure to each factory the same prices or any particular proportion of output. In all these respects the trust is superior to the cartel, since the latter is not itself a productive concern, but merely an agreement between productive concerns, which is incapable of influencing the costs of production of the different works. Again, the trust with its vast capital is better able

to crush new competitors than the cartel. Cartels, in fact, are not capitalist organizations in the sense of depending directly on capital power for their effectiveness. Even where the members of cartels subscribe to a common fund for the crushing of new competition, a practice which has become commoner in recent years, as a fighting force the cartel is less united and less permanent than the trust.

Now where a holding company controls the great majority of the firms in a trade, it is evidently in a position to exert monopolistic pressure, and it must be evident that this can be far more intensive on the solid financial and capitalistic basis of the trust than on the merely contractual basis of the cartel. In the case of the latter, divergence of interests can much more easily bring about a dissolution of the organization, and while of course the dissolution of a holding company and the breaking up of its constituent firms is not an impossibility, still in its case divergent interests have been eliminated to a far greater extent and the risk of dissolution is therefore very much less. Thus, taking a general view of their economic effects, the cartel does not represent such a high degree of monopolistic organization as the trust does — though of course a cartel which included 99 per cent of all the firms in a trade would enjoy a position of more perfect monopoly than a trust controlling only 80 per cent of the firms in its trade. Here too it must be borne in mind that the trust is a capitalistic unit formed through the financial agglomeration of firms, and that by exploiting its capital power it can load the scales against its opponents to an extent which is quite impossible for the firms associated in a cartel. The significance of financial concentration has been shown in the efforts of the trusts to expand beyond the boundaries of their national territory which have been such a marked feature of the post-War period. Here we are witnessing what is certainly only the beginning of a movement that is destined to develop almost automatically owing to the tremendous indebtedness of Europe to America. Big American firms had established themselves in Germany even before the War, not merely with a view to marketing their products, but setting up works of their own in the country. The earliest instance of this was probably the case of the Singer Manufacturing Company, which turns out more than 80 per cent of the world production of sewing machines and has a very large factory in Germany. Of the more recent penetration of Germany by American trusts we shall have more to say later.

In respect of the numbers of its foreign subsidiaries the Standard Oil Group presumably heads the list, controlling as it does some 250 companies outside the United States, in more than fifty different countries. But it is probably the 'Banana Trust,' the United Fruit Co., whose foreign business is most intensive. This controls not merely the whole banana production and exportation but the whole railway system and most of the shipping of a number of Central American states, so that we may legitimately speak of 'Conquest of Central America by the Banana Trust' (described by W. Bitter, Hamburg, 1921). These countries, and Costa Rica above all, are in fact completely under the thumb of this one company and its two presidents, Keith and Preston, the Kings of Central America as they have been called, since they can at any time bring about an economic crisis by stopping all maritime transport and depriving the Government of its principal source of revenue. This predominant position of the Banana Trust, which controls about 60 per cent of the world's shipments of bananas, is primarily due to its transportation monopoly, based on the co-operation of its railway and shipping interests. On the appearance of a competitor, the Atlantic Fruit Co., in which in pre-War days the Hamburg-America Line was a heavy participant, it proved able to eliminate this competition by the well-known American methods. When employed against foreign countries these methods were not merely not discouraged, but actually encouraged by means of the new laws for the encouragement of export. Thus behind the United Fruit Co. we find the well-known American International Corporation for the Promotion of Export, and behind that the National City Bank and the inevitable J. P. Morgan and Co. Many other examples could be given of the way in which the economic imperialism of the United States, which has been so tremendously intensified since the War, has made use of the financial power concentrated in the trusts.

But these advantages outlined above are all that the trust can claim as against the cartel. The most important advantage of a monopoly organization, viz. the possibility it has of adjusting production to demand, can be achieved by a well-organized cartel just as much as by a trust — though it must be acknowledged that most of the German cartels have not yet reached this stage in organization. Opinions differ as to whether the restrictions of production which are necessary in times of depression can be more advantageously carried through by cartels or by trusts. The trusts shut down

some of their works completely, throwing the American workers on the streets with an incredible ruthlessness. From the mere standpoint of productive technique this proceeding is preferable to that of the German cartels, which enforce a restriction of output upon all their members equally; none of their works are employed up to full capacity and so the costs of production go up. On the other hand, from the point of view of the workers the latter system is preferable, since there are few or no dismissals. The other alternative, where the cartel as a whole closes down certain works and compensates their owners, is one comparatively seldom adopted in Germany. Of course in America the workers have got more or less accustomed to the methods adopted there, and find it quite natural that they should be stood off the minute their services can be dispensed with, even if only for quite a short time. They make up for this by exploiting favourable trade conditions to a far greater effect by making energetic demands for wage-increases. Still, with the most recent developments of our trades union movement, the situation is now not so very different in Germany. The workers seem singularly slow to realize that it is very much to their advantage too that trade fluctuations should be minimized.

When we consider the power which the united firms have over their workers we must acknowledge here too some superiority of the trusts over the cartels. Still, strong employers' associations may be just as effective as a trust, and in actual fact much depends on the strength of the trade unions and on particular social conditions. The opinion I expressed in former editions to the effect that the growing power of the workers' organizations would stimulate the formation of amalgamations and trusts in Germany is being increasingly confirmed by events. The German movement towards rationalization and amalgamation is very largely to be attributed to the more insistent wage-demands of the workers.

In general, it is undeniable that the formation of the American trusts has depressed the position of the worker, as in fact any large-scale concentration of industry must do. The trades union movement has certainly made a good deal of progress, but wherever it has taken on the big corporations it has generally been worsted, whereas local undertakings, gas works, tramway companies and the like, have been obliged to pay more attention to it. The trusts have, generally speaking, shown caution in their treatment of their workers, mainly for political reasons, not wishing to swell the

ranks of their enemies overmuch or stimulate these to more violent attacks. They have hardly ever done anything to improve the conditions of the workers. The employers' liability legislation is still very inadequately enforced. The figures given above for the number of workers employed by the Steel Trust illustrate how the trusts have done absolutely nothing to secure steadier employment for the workers. A remarkable feature of the Steel Trust, and characteristic of American industrial conditions, is the profit-sharing system it has introduced. Whereas the superior officials participate in profits through a percentage on their salary, i.e., without bearing any of the risk of loss, the inferior employees are merely enabled to purchase shares, the trust setting aside some 7 per cent preference shares for the employees to buy in instalments spread over three years (but if they are behindhand in any payments 5 per cent is deducted from the dividend). If the worker takes up these shares and remains five years with the company he gets an extra dividend of fifty cents per share per annum. The remarkable thing is that this plan was very well received by the workers' trade unions. The extent to which the capitalistic spirit has been instilled into the American worker is shown by the fact that during the first three years of the scheme more than 120,000 or about one-twelfth of the preference shares had been taken up by the workers, the greater number of these being held by the worst-paid workers.

In respect of their efforts to bring about conditions of *greater stability* throughout a whole industry, the German cartels have hitherto proved superior to the American trusts, though even in Germany it has only been a few cartels that have had real success in this respect. In any case it may be said that the trusts are far more the outcome of the private desire for profit of a few big capitalists than our cartels; they have pursued their private gains far more wholeheartedly than the cartels, and have been attended with advantage to the community as a whole only where the advantage of the community happens to coincide with that of the few big capitalists. This was the case as regards the cheapening of production with its resulting increase of competitive power as against foreign countries. This latter has however usually been exaggerated; even the great Steel Trust, to take one instance, has not proved such a menace to German industry as was feared. In recent times America has come with other nations into the international iron and steel cartels. Like our cartels, the

American trusts have sold cheaper abroad as a matter of course. Dumping, which is so severely condemned by public opinion in other countries, has in fact been very extensively practised by America in recent times; but the trusts have not hitherto shown any superiority to the cartels in this respect. In America the latent possibilities of the internal market were so great, that most industries were not under any strong compulsion to export, especially since exportation of their products was rendered difficult by the ruling high wages and prices. On the other hand, the concentration of capital in America and its enormous capital resources facilitated the setting up of competing enterprises in foreign countries.

The Steel Trust, the Oil Trust and the Harvester Trust have, it is contended, brought about a greater stability of price in their industries. In the case of the United States Steel Company, however, it has not been the company itself that has stabilized prices, but a price-cartel, the so-called Steel Conference, a combine which the Steel Trust concluded with the other big works and in which it no doubt plays the leading part. Of the Oil Trust and all the other trusts the utmost that can be maintained is, that they have kept prices stable in certain districts, those namely in which their monopoly position is absolutely secure. Almost all the trusts however have to wage a continual warfare against new competitors in most of their markets, and in such markets price-changes are more violent or at least more sudden than ever they were. This is because the trusts, as was recently shown once again in the course of the Standard Oil Inquiry, very frequently exploit their monopoly position in some markets to recoup themselves for the policy of selling at a loss in others, by which they attempt to crush any new competition that may spring up. In the vast territory of the United States such territorial monopolies are far commoner than we in Germany, accustomed as we are to living in a far more restricted space, are inclined to suppose, and they are secured by the intimate connexions between the trusts and railways. Thus the capitalistic organization of the trusts, with its financial amalgamation of firms in quite separate economic districts, enables the different companies belonging to it to pursue very various economic policies, while behind each of them there is the might of the whole united capital ready for action in case of need.

In quite recent times there seem to be signs of a greater stability spreading, though

exceedingly slowly, over American economic life. This is not really to be ascribed to the trusts. The stabilization of oil production which was recently agreed on will produce a stabilization or rather a slow rise of price. But generally speaking, the trusts have acquired their position as the result of a violent competitive struggle and even to-day have, as a rule, to fight to maintain it. The most important trusts are raw-material monopolies, and in a country which is still young and still in the main sparsely populated new sources of raw material are continually being opened up, which are capable of competing with the old, monopolized sources, at least over certain tracts of the country. In this struggle against new competitors, the trusts have deliberately aimed at compassing their ruin, and have not hesitated to employ the most questionable weapons, though here of course they have been aided and abetted by the whole legal and economic system of the United States. In spite of all the laws that were supposed to prevent them, preferential rebates (railway discriminations) granted by the railways to the great corporations were the principal means used by them to crush competition. In innumerable cases, the big trusts wielded their huge financial power to secure such concessions from the railways, thus rendering all attempts at fresh competition impossible. The Standard Oil Company in particular gained its present monopoly position by this means. Nowadays however the railway discriminations are more and more giving place to the practices familiar to us, such as exclusive trading obligations, exclusive trading rebates, the threat of buyers' or sellers' boycotts. These methods of fortifying a monopoly position are now claiming the attention of the legislature and of the courts in America, as with us.

The classical example of the employment of such methods to maintain a position of monopoly occurred in connexion with the Boot Machine Trust. It was founded in 1899 with a capital of 25,000,000 dollars, and since 1906 exists as a holding company, the United Shoe Machinery Corporation, which owns the entire capital of the United Shoe Machinery Company. Its main line of policy was not to sell the machines it had built, but to hire them out, taking, e.g., for the last cutting machine a rent of 1½ cents for each pair of shoes turned out. In itself this arrangement was quite favourable to the purchaser, since it enabled even quite small manufacturers to use them, who could not possibly have bought all the machines. The company, unlike many other trusts, also took care that they should all pay the same price. But

hiring a machine involved far-reaching obligations to purchase other machines exclusively from the same company, and the company reserved to itself the right of taking back the machines at any time on very short notice. The essential terms of the contract were: (1) The lessee may neither hire nor purchase any other machines from any other firm; (2) Should any one hire more machines than in the opinion of the lessor he needs, he must return them to the company and bear all costs involved in hiring them to some other firm; (3) No spare parts may be ordered or repairs executed by any one except the lessors; (4) The lessor is granted a right of entering the premises of the lessee at any time for the purpose of inspecting the machines. It must here be borne in mind that in general the patents under which the machines had originally been manufactured had long since expired. On the question as to whether the company had favoured technical and economic progress, its opponents assert that all the principal inventions embodied in the machines were made years before the flotation of the company, and that it had tried to prevent the establishment of new firms by cutting off their supplies of credit and capital. The company, on the other hand, points to the fact that it bought up the other undertakings at their full value, and that it has spent 250,000–750,000 dollars a year on experiments. In general it must be said that such a far-reaching monopolization of production — the company controls some 96 per cent of the country's output of some very important machines — is prejudicial to the economic welfare of the nation, both from the point of view of price and of technical progress.

Chapter XXXVII: Financial Abuses Characteristic of the Trusts.

Since, as we have already stated, most of the so-called trusts in America are not monopoly organizations, their principal effects are not of a monopolistic character. There have been monopolistic trusts, which were able to effect great price increases for a time, e.g., the wire, sugar, aluminium and other trusts; but these soon experienced a set-back, since the monopoly position of the trust was not permanently secured and new competition soon sprang up. Even these price-increases were in the main to be attributed to speculation, such as is a common feature of American exchanges quite apart from the trusts (cf. the speculations in wheat and copper). But of course, where there are big holding companies in the trade, the leading men of these companies are especially favourably placed for carrying out such speculations.

The main effects of the American trusts, especially the undesirable effects, are thus of a financial or capitalistic nature. They are to be seen first in the serious abuses characteristic of the flotation and management of these huge concerns, and secondly in the prodigious increase in the power of a few big capitalists which results from these agglomerations and their financing.

The abuses connected with the foundation of the trusts have been described often enough. Usually the trust has to pay the various firms which were formerly independent a very high price to induce their owners to come in. This is especially the case with large and rich enterprises whose accession is absolutely necessary to give the trust its monopoly position, but which it cannot hope to subdue by the

process of competitive warfare. Thus almost all trusts begin by being over-capitalized. A few trusts form an exception to this rule, especially the older ones such as the Standard Oil Company, which did not originate out of a number of amalgamations and purchases all brought off at once with a view to establishing a monopoly, but which went on slowly extending their sphere of influence under able direction, eliminating all firms that stood in their way not by way of peaceable agreement, but by competitive warfare. The methods employed to get rid of competitors were often of very dubious morality or even legality; American trust history is full of tales on this topic, and many are loud in their praises of the 'smartness' with which the founders of the trusts attained their ends. The Standard Oil Trust acquired the monopoly position which it enjoyed for many years primarily through getting the railways to grant it special transport advantages in return for a promise on its part to leave the whole transportation of its output to them. It made this agreement with a number of different lines simultaneously so as to promote cut-throat competition between them, buy up their shares cheap and gain control of them. Many other trusts are likewise said to have acquired their monopoly position with the help of the railway companies. It is probably true to say that hardly any trust has ever been founded without bribery, and cases have occurred of a trust trying to get rid of its competitors by arranging for their works to be blown up.

With most of the trusts, however, especially after the great advantages which could be derived from participation in them became generally realized, the process of formation was less violent, though not necessarily less immoral. The long process of competitive warfare came to be eliminated more and more, and was replaced by the method of inducing owners to hand over their undertakings by offering them very large payments. Since the trust is an amalgamation of actual *plants*, the value of which has to be estimated, it is clear that there is great scope for purely arbitrary valuations. Since the former owners demand it, they are paid an exceedingly high price for their plant, or else an exceedingly high compensation for their so-called 'goodwill,' which they contribute to the trust.

In England and America the flotation of companies is undertaken, not, as in Germany, by the banks (banks of issue or industrial banks), but by certain private capitalists who are not called bankers but 'promoters' or financiers. These persons

have always been very unscrupulous over the notation of companies, since American law knows nothing of all those provisions of German company and Stock Exchange law which are directed to preventing the flotation of fraudulent companies or the exploitation or defrauding of subscribers by promoters. In former years the shareholders of railway companies in particular were robbed of millions upon millions of dollars, usually through the promoters selling the track or the material or the land to the company at a ridiculously high price, or through their speculating in its shares, or through their crushing other railways, buying up their shares cheap and selling them dear to the company.

The development of large-scale industry, the foundation of giant undertakings, inevitably requires that the business of supplying these with money — the business of financing them — should also be put on a larger scale. Whereas in Germany this was provided for by the development of the banks, in America these were prevented by the extraordinarily decentralized American credit system from extending either the scale or the scope of their activities to satisfy the requirements of industry. Thus the whole business of providing money for big undertakings and amalgamations fell into the hands of private financiers, these getting control of banks, trust companies and insurance companies and using the capital of these institutions for their own purposes. In so doing they disregarded the general interests of the community to a far greater extent than our banks of issue do, which are subjected to a far greater degree of public control; and just as American business is through and through riskier and more speculative than German business, so in this particular field the spirit of private enterprise and private speculation is allowed to develop far more freely than with us.

Since in the last few decades there was less room left for the flotation of *new* firms, these financiers and great capitalists came to find in the amalgamation of firms a lucrative source of promoters' profits. They contrived to present the general public with a picture of the advantages to be derived from the amalgamation — the economies, the high profits — couched in the most glowing terms, and so were enabled not merely to pay excessive prices for the shares of the firms to be amalgamated, but also to realize a high premium on the newly issued shares of the over-capitalized holding companies. The most incredible swindles have been

arranged so that new capital is issued to firms that are actually already bankrupt on their amalgamation with others, and all this money flows into the pockets of the financiers.⁵¹

The flotation both of trusts and of companies in general by the amalgamation of all sorts and sizes of enterprise has thus become quite a special business of its own — and an exceedingly profitable one. The man who induces the individual firms to come together and form a trust, who drafts the plans for its flotation, and manages to get it a charter or concession, is called the Promoter. He naturally takes a very large fee for his services, and besides the expenditure of capital in buying out the former owners there is a very large sum for promotion costs. Apart from this it is the common practice of American corporations to capitalize the real value of the firm entirely in preference shares and debentures, and to issue over and above this a considerable quantity of ordinary or ‘common’ shares, the interest on which is to be paid out of the future profits expected from amalgamation or monopoly. Many trusts are over-capitalized to such a degree that the nominal value of the debentures and preference shares far exceeds the real value of the concern. This explains Carnegie’s insistence on being paid for the big works which he brought into the Steel Trust exclusively in debentures, and these largely secured on mortgage rights.

Enormous promoter’s profits were made on the flotation of the subsidiary companies within the Steel Trust, and still larger profits on the promotion of the Steel Trust itself. The promoting syndicate made a profit of 62,500,000 dollars, the firm of Morgan, which played the leading part, receiving a fixed sum of 12,500,000 dollars and also a percentage of the remainder. Some 150,000,000 dollars worth of the stock of the Trust went to promoters and underwriters.

On the flotation of the Harvester Trust with a capital of 120,000,000 dollars, the value of the plant and stocks amounted to 67,000,000 dollars, and Morgan got a promoter’s profit of 3,000,000 dollars. In the case of the Rubber Shoe Trust the promoters got 5 per cent, of the whole capital — still, this is only about as much as the American bankers got out of the German Reparations Loan.

In the case of quite a number of trusts, investigations have proved that the value of the plant and stocks taken over accounted for less than half the nominal value of the capital issued; e.g., the Cigarette Trust had a capital of 25,000,000 dollars while

the total value of the subsidiary companies only came to 5,370,000 dollars.

To unload the shares of this sort of trust on to the public is naturally a task requiring special skill. It is undertaken by financiers, underwriters, and banking businesses, large and small, and these often take very high fees from the promoters of the trust for their pains. It has been shown that the total promotion and emission costs for a trust sometimes amount to 20 per cent to 40 per cent of the capital, and naturally interest has to be paid on them out of earnings. Thus where a trust has 100,000,000 dollars of capital, some 30,000,000 dollars may be spent straight away on promotion costs; and of the 70,000,000 dollars which the former owners get, perhaps only 40,000,000 dollars represent the true value.

Yet in spite of this prodigious over-capitalization and the barefaced frauds perpetrated in connexion with many of the trusts, the public in the earlier years of the trust movement was accustomed to rush blindly for any sort of trust stock and pay almost any premium to get it. This gave rise to an extraordinary speculation in trust shares, which reached its high-water mark; in the years 1899–1903, and resulted in more and more trusts being founded. Companies now began to be amalgamated without any economic ends, such as economy of costs or monopolization of the market, in view, but as a speculation pure and simple. Many of these amalgamations and trusts were negotiated simply with a view to placing a new sort of stock on the market and making profits out of the flotation and on speculation in the new paper. The small capitalists on whom all these shares were unloaded were of course the sufferers in the end, when crisis came and many of these amalgamations proved to be over-capitalized; the promoters always managed to withdraw in good time.

It must always be remembered that for the outsider to gain any clear idea of the financial status of these big fusions is quite out of the question, so that their directors can do almost anything they like in the matter of drawing up balance sheets and valuing plant. Most of the companies that come into such a trust have themselves originated in some sort of fusion, and themselves own shares in other firms. There is thus a regular rabbit-warren of subsidiaries, of ‘parent,’ ‘daughter’ and ‘granddaughter’ companies, all participating in each other. By transferring property from one to the other, by sales of one of the companies to one of the others, or by carrying over sums from balance sheet to balance sheet, it is possible to make out

quite arbitrary figures for the trading yield, and to produce bogus profits. Alternatively, by employing all these methods and also by exchange of shares, special methods of book-keeping and the like, balance sheets can be rendered so obscure as to make it impossible for any outside person to form any idea of the real financial situation of the trust. All these methods have been employed by speculating directors of trusts whenever their interests required that the price of the trust stock should fluctuate violently.

It *is* certain that the financial abuses which have been bound up with trust promotion in America have been far more disastrous for the American national economy than any effects which the trusts may have had on prices. The prodigious differences of income resulting from them, the opposition so greatly accentuated by the trusts between the few very rich and the innumerable poor who are utterly dependent on them — these are the real reasons why they are so detested by the general public. Speculation in trust shares has inflicted tremendous losses on the public, while enriching the directors of the trusts, who had advance information of all the reconstructions, share-issues, and promoters' manipulations.

In any case it is an undisputed fact that a relatively small number of large capitalists and financiers have made prodigious profits out of the promotion of these amalgamations, with the result that they now control a large portion of the whole national capital. These capitalists get control in the first instance of the big banks and insurance companies, and use the great masses of capital pouring into these institutions to control whole industries in their own private interest, and that with relatively little capital of their own, so that they run scarcely any risk. It is no exaggeration to say that the employment of all these resources of the modern share and credit system (the *substitution* of different credits and shares for one another through the medium of banks, trust companies, insurance companies and the like) enables financiers to control two hundred times as much capital as they themselves possess. Thus, for instance, almost all American railroads of any importance, having together a mileage of some 300,000 miles, are in the hands of a few 'groups,' with, as a rule, one large capitalist at the head of each — a W. K. Vanderbilt, G. J. Gould, E. H. Harriman, P. Morgan, J. Hill, W. H. Moore, or in recent years the van Sweringen Brothers. E. H. Harriman, who died in 1909, was probably the biggest

railroad magnate that the United States has ever seen; the mileage of the railroads he controlled exceeded that of all the railways in the German Empire. In 1905 government statisticians established the fact that ninety-three capitalists, when they choose to act together, control more than 75 per cent of the railroad mileage, more than 81 per cent of the gross profits, more than 82 per cent of the railroad property — valued at more than 10,000,000,000 dollars — and more than 87 per cent of the goods carried. And of course these are the same people who control the rest of industry and trade.

Whereas cases of a few big capitalists attaining to enormous power occurred even before the advent of the trusts in the strict sense of the word, yet there can be no doubt that great amalgamations and above all the system of holding companies makes it possible to control whole industries far more easily and with relatively little capital of one's own. Nor can there be any doubt that the development of these organizations has accentuated the opposition between the few very rich on the one hand and the great masses on the other. The accumulation of a considerable portion of the whole capital of the country in a few hands is one of the great dangers which threaten the State and its social life through the development of trusts — especially in America where everything whatever is bought and sold for money. The democratic views of the Americans place them before a painful dilemma in dealing with the trust problem. Their deeply rooted notion of individual freedom, which forbids them to set any bounds to the profit-seeking activities of any one, the reverence with which they regard their successful dollar kings, and the indulgence with which they condone dishonesty for the sake of profit have hitherto prevented them taking any serious steps to protect the general public or to secure a fairer distribution of the national income.

America (and England) were, it is true, quicker than we were to recognize the necessity for steeply progressive taxation of incomes and property, especially with a view to absorbing the huge war profits made in those countries; but the whole structure of their economic life, and more than all, their economic policy is the typical policy of the large capitalist. The socialists are perfectly right in their assertion that it was these great capitalistic interests that were responsible for America's entry into the War. The whole War was for them a stroke of business, and

America's whole attitude to Europe after the War has been and will be regarded purely as a business proposition. The great mass of people in Germany still have absolutely no idea of the influence which the big money magnates exert on the money market, the Press, the public opinion and the government of the United States.

It is also interesting to note that the era of the largest concerns has also brought forth what is certainly by far the largest *individual* firm in the States. This is the Ford Motor Company, which is entirely in the hands of Henry Ford, his wife and his son, the property of which amounts to some 750,000,000 dollars. In 1925, on a turnover of more than 1,000,000,000 dollars and a sale of more than 2,000,000 cars, the net profit was 95,000,000 dollars, or more than the 1925 profit of the Steel Trust available for dividend (90,300,000 dollars, of which 'only' 61,000,000 dollars were distributed).⁵² In spite of all the taxes levied on this income, the mere fact that such a gigantic sum flows into the pockets of one single man must still be deprecated from a social and political point of view.

From these figures we can form an idea of what the plutocratic effects of modern large-scale business would be, if this example of the individual ownership of a vast undertaking were commoner, instead of the profits, as they are in fact, being somewhat better distributed through the working of the joint-stock company form of organization.

Chapter XXXVIII: Trusts in Germany and Other Countries.

In Germany also monopolistic fusions and holding companies were not unknown in former days; in the less important industries we find several instances of these organizations being formed. The oldest is probably the Nobel Dynamite Trust Company, which was incorporated in London in 1886 on the basis of a 'trust' at English law, and which comprised three English and all the German dynamite factories. It took charge of the shares of all its subsidiaries, and issued trust certificates for them. On the outbreak of War the trust was dissolved, and the principal German company, Dynamitfabrik A.-G. vorm. Nobel of Hamburg, became a holding company for the German firms. This company, the Köln-Rottweil A.-G. and the Rheinisch-West-fälische Sprengstoff A.-G., which had for some time been associated in one interest-group, have now passed to I.G. Farbenindustrie, primarily in view of their interests in artificial silk.

Since 1901 there has been a monopolistic holding company in the rice-milling industry, the Reis und Handels A.-G. of Bremen comprising all the German rice mills, three public and six private companies in all. Other instances of concerns having more or less of a monopoly in their industry are the Akkumulatorenfabrik A.-G. in Berlin-Hagen; the A.-G. für Leimindustrie vorm. H. Scheidemandel of Berlin; and, for certain branches of the heavy jute industry, the already mentioned Vereinigte Jutespinnereien und Webereien A.-G., which is a part of the Blumenstein Concern.

Of particular interest are the recent developments in the milling machinery industry, an industry which in the course of a few years has passed through all the various forms of association and integration and now reached the stage of

monopolistic amalgamation. In this industry we have one of the cases where the amalgamation was almost entirely the work of a single man, an engineer named Hugo Greffenius, who was partner in a little Frankfurt firm of milling machinery manufacturers. Stimulated by observations he had made in America, he had already before the War conceived the plan of effecting an amalgamation of the four biggest firms in the German milling machinery industry.

After the War he reconstructed his firm as the Hugo Greffenius A.-G., and managed with the help of bank credits to get control of the majority of the share capital of the other four firms, in spite of the fact that some of these were, in the main, family businesses. An agreement was then reached between the various parties concerned, and in August 1921 the 'Miag Muhlenbau-Industrie A.-G.' was founded, with a capital of 16,000,000 marks. It took over 50.1 per cent in each case of the capital of Amme, Gieseke und Konegen A.-G. of Brunswick, Müblenbauanstalt und Maschinenfabrik vorm. Gebr. Seck of Dresden, Maschinenfabrik und Mühlenbauanstalt G. Luther A.-G. of Brunswick, Hugo Greffenius A.-G. of Frankfurt-a.-M., and Kapler Maschinenfabrik A.-G. of Berlin. The Miag also acquired shares of allied firms, particularly mills, and acted as financing company to the whole concern.

The five works in the concern also had an interest-group agreement, which of course became somewhat pointless when once their consolidation through the holding company had been effected; they were also in a cartel of the solid or syndicate type, in another price-cartel of a loose kind, and in a trade association, these last two comprising the firms in the concern and the smaller German milling machinery firms, some thirty in number, which do not manufacture for export.

At the end of 1925 the five works in the concern resolved on an amalgamation which was to bring about their complete absorption in the Miag. The capital now amounts to 15,000,000 marks, of which the 200,000 marks of preference shares are all owned by the President, Dr. Hugo Greffenius. The five works are now simply branches of the Miag. Its participations in other companies are put down at 3,100,000 marks, and they consist of the greater part of the 2,400,000 marks capital of Habermann und Guckes-Liebold A.-G., builders, of Berlin — a firm which was acquired in order that the trust might be able to undertake the erection of complete

mills and grain warehouses — also of various subsidiaries in Vienna, Brunswick, Milan and London, and of certain minority participations. This co-ordination by way of fusion is designed above all to secure the greatest possible rationalization of production and economy of costs. The Miag declared that the amalgamation would enable them to save the fees of forty-five directors. Up to now this kind of rationalization and economy in respect of personnel and other costs has not been sufficiently realized, even in the case of the I.G. Farbenindustrie (Chemical Trust).

The I.G. Farbenindustrie A.-G., the biggest German trust, was formed in 1925 by the largest and oldest member of the interest-group, the Badische Anilin- und Sodafabrik, absorbing all the remaining undertakings, raising its capital to 641,600,000 marks worth of ordinary and 4,400,000 marks of preference shares, and taking the above name. The new name *is* not a pretty one, and in the case of the greatest of German firms imponderables of this sort ought to have been considered. Nor is it correct, either from a formal or from a material point of view; the dyestuff business is no longer by any means the most important and is certainly not the most profitable of its activities, and it is no longer an interest-group, but a single undertaking.

According to a conspectus drawn up by the firm of Schwarz, Goldschmidt and Co., of Berlin, the firms comprised in the I.G. Farbenindustrie at the time of its foundation were the following:

The key firms of the concern: Badische Anilin- und Sodafabrik, Ludwigshafen am Rhein; Ammoniakwerke Merseburg-Oppau G.m.b.H.; Farbefabriken vorm. Friedr. Bayer und Co.; Farb-werke vorm. Meister Lucius und Brüning; Leopold Cassella und Co.; Chemische Fabrik Griesheim-Elektron; Akt.-Ges. für Anilin-fabrikation, Treptow; Chemische Fabriken vorm. Weiler-ter-Meer; Wülfig, Dahl und Co. A.-G. in Barmen; Karl Jäger G.m.b.H. in Düsseldorf-Derendorf; Kalle und Co. of Biebrich; Oehler of Offenbach; Chemikalien-Werke Griesheim G.m.b.H.

Artificial Manures and Agricultural Requisites: A.-G. für Stick-stoffdünger Knappsack; Stickstoff-Kredit G.m.b.H., Berlin; A.-G. für Landeskultur, Berlin; Koliner Kunstdünger und Chemische Fabrik, Prague; Zuckerfabrik Körbisdorf.

Chemical Factories: Chemische Werke Schuster und Wilhelmy A.-G., Reichenbach; Wolf-Werke Chemische Fabriken, Neuss-am-Rhein-Hannover;

Chemische Werke Lothringen; Delvendahl und Kiintzel G.m.b.H., Werder an der Havel (scents); Chemische Werke Durand und Huguenin A.-G., Basle.

Electro-Chemical and Metallurgical Factories: Alexander Wacker A.-G., Munich; Elektrochemische Werke A.-G., Horrem; Elektrochemische Werke G.m.b.H., Bitterfeld; Aluminium-Werke G.m.b.H., Bitterfeld; Elektro-Nitrum A.-G., Rhina; Soc. Electroquímica de Flix, Barcelona; Ampère G.m.b.H., Berlin; Deutsche Edelsteingesellschaft vorm. Herm. Wild A.-G., Idar; Duisburger Kupferhütte A.-G., Duisburg, Deutsche Molybdäenwerke, Teutschenthal.

Coal, Brown Coal, Oil: Auguste Viktoria mine; Rheinische Stahlwerke, Duisburg-Meiderich; Riebeck'sche Montanwerke A.-G.; Erdöl- und Kohleverwertungs A.-G.; Bergin Kohle A.-G.; Chemische Fabriken und Asphaltwerke A.-G., Worms; Doerstewitz-Rattmannsdorfer Braunkohlenindustrie A.-G., Halle; Gewerkschaft Elise II; Frechen Lignite Mine; Jacob's Mine at Preussisch-Börnecke; the Theodor I and II mines at Bitterfeld; the Hermine Mine at Bitterfeld; the lignite works Deutsche Grube A.-G. at Bitterfeld; the Marie and Antonie mines at Bitterfeld; Deutsche Braunkohlengesellschaft A.-G.; Deutsche Gasolin A.-G.; Olea Mineralölwerke A.-G., Frankfurt; Süddeutsche Öl und Melanolwerke G.m.b.H.

Compressed Gases: Griesheimer Autogen-Verkaufsgesellschaft m.b.H., Frankfurt-am-Main; Deutsche Oxyhydric A.-G., Berlin; Gesellschaft für Lindes Eismaschinen A.-G.

Textiles: Karl Neuhaus G.m.b.H., Elberfeld; Verwollungs A.-G., Frankfurt-am-Main; Hoelkenseide G.m.b.H., Barmen; Textilosewerke und Kunstweberei Claviez A.-G., Adorf i.V.; Philana A.-G., Bâle.

Foreign Marketing Companies: H. Metz and Co.; Consolidated Color Chemical Co.; Central Dyestuff Chemical Co.; General Dyestuff Corporation (factories at Albany and Patterson); Graselli Dyestuffs Corporation, Cleveland, Ohio; China-Export-, Import- und Bank-Compagnie, Hamburg, Shanghai and Canton; Chimica, Industrial Bayer and Westkott & Cia., Rio de Janeiro; Teerfarben-Industrie A.-G., Zurich; Oestliche Handelsgesellschaft and Bayer Products, Ltd., London; Productos Químicos Meister Lucius Biring, S.-A., Barcelona.

Various: Kalk- und Emailierwerke Gebr. Wandersleben, m.b.H., Stromberg; Heggener Kalkwerke G.m.b.H., Heggen-; A. H. Rietschel G.m.b.H., Munich;

Kremer-Kläragesellschaft m.b.H., Berlin-Schöneberg; and Deutsche Länderbank A.-G.

It is quite impossible for an outsider to know whether this list is complete or not. In the balance sheet of I.G. Farbenindustrie A.-G. for 1925 the participations of the company in other firms were valued at 237,110,000 marks.

The above list takes no account of the intimate relationship which has been established since 1925 between I.G. Farbenindustrie and two of the largest artificial silk firms, Vereinigte Glanz-stofffabriken and I.P. Bemberg A.-G. I.G. Farbenindustrie has relations partly through these subsidiaries and partly direct with the two great artificial silk concerns of England and America, Courtaulds, Ltd., with its capital of £20,000,000, and Dupont de Nemours Co., with 160,000,000 dollars capital.

The glamour attaching to a big concern, especially when it is as prosperous as the I.G. is, the big new branches of manufacture some of which are already in process (the extension of the artificial manure and artificial silk manufacture, the production of methanol and motalin) while others are in preparation, the sensational rise in the price of its shares (by more than three and a half times within six months) — all these considerations led in 1926 to a considerable expansion of the concern's basis. The capital was raised by 258,400,000 marks worth of ordinary shares to a total of 900,000,000 marks of ordinary shares, 35,600,000 marks worth of 3½ per cent preference shares, most of which were allotted to the member firm of Leopold Cassella and Co., and 160,000,000 marks worth of 6 per cent preference shares, making a capital of 1,100,000,000 marks in all. This made the I.G. Farbenindustrie the biggest company in Europe in respect of its share capital.⁵³ Part of the new capital was employed in taking over the entire explosives concern — which is now primarily occupied in the production of artificial silk — viz. the Köln-Rott-weil A.-G., the Dynamit A.-G. vorm. Nobel, and the Rheinisch-Westfälische Sprengstoff A.-G. These companies again are intimately allied with the English Nobel Dynamite Company and with the American powder trust mentioned above. In 1926 the shareholders of the Riebeck'sche Montanwerke were allowed to exchange their shares for shares in the I.G. Farbenindustrie in the ratio of ten Riebeck shares to six I.G. Farben. shares, the I.G. Farbenindustrie thus acquiring control of a great brown coal

concern.

Further additions have been the Gustav Genschow & Co. A.-G., Berlin, an explosives factory; brown coal mines in West Germany (the Wachtberg Group); the brown coal mine belonging to the Korbisdorf sugar factory; 50 per cent participation in the Dr. Albert Wacker G.m.b.H., Munich (Electro-chemical, carbide); in the Chemische Werke Lothringen G.m.b.H.; in the Aceta artificial silk factory, Berlin; in the Duisburger Kupfer-hütte A.-G.; and in the Sachtleben A.-G., Cologne (the other 50 per cent of its capital belongs to the Metallbank concern). The most recent acquisition is the Behring-Werke A.-G., Marburg.

In 1906 the Badische Anilin- und Sodafabrik had joined with French interests in the foundation of the Norsk Hydro Elektrisk Kvaelstof A.-G. for the production of nitrogen, but in 1910 it reduced the extent of its participation. The German shares in the Norwegian company, which were issued in Paris, were lost in the general robbery of German private property conducted by the Entente after the War; but, in 1929, the I.G. once more bought a holding in the Norwegian company, which is itself a big concern with 77,000,000 kroner share capital and over 100,000,000 kroner worth of participations; it also arranged for the exchange of members between the Boards of the two concerns.

It is interesting to note that the biggest works of the concern, the Leuna-Werke Ammoniak-Werk Merseburg, is still a private company of its own, with 135,000,000 marks of capital, 101,250,000 of which belong to the I.G., while all the rest are owned by Leopold Cassella G.m.b.H.

Another interesting feature of the I.G. is that since 1926 it has had a scheme of wage-premiums varying with the dividend, a sort of profit-sharing. In addition to their increases for each year of service with the firm, workers and officials with a salary of less than 8,000 marks a year receive 1 per cent premium on their wages or salary for every 10 per cent of dividend declared — e.g., with a dividend of 12 per cent they would get 1.2 per cent more wages. In addition, the savings of the officials invested with the firm, besides a basic rate of interest of 6 per cent, receive as well a bonus at the rate of a quarter of the dividend rate — i.e., in 1928 they received a bonus of 3 per cent.

At the end of 1928 the I.G. Farbenindustrie was employing in its own factories

85,174 workers and 22,260 officials (in 1927 the numbers were 73,404 workers and 20,338 officials); if the undertakings controlled by it be included, the number of workers would be about 143,000.

The company has divided up its extraordinarily varied production into five different groups. These are (i) dyestuffs, (ii) nitrates, (iii) pharmaceutical and pest-destruction products, (iv) photographic products and artificial silk, (v) inorganic and intermediate products. Its very numerous works are divided into four administrative districts, the Upper Rhine, Middle Rhine, Lower Rhine and Central German districts.

Of great interest and probably of the utmost importance for the future are the relationships which I.G. Farbenindustrie has established with the two big petroleum concerns, the Standard Oil Group and the Royal-Dutch-Shell group. These provide for their participation or at least for common action in respect of the exploitation of German patents for the synthetic manufacture of benzine, i.e., of light liquid carbohydrates. Both the I.G. Farben-industrie and the Royal-Dutch-Shell group already have considerable holdings in the Bergin-Companies, two of which are in Holland and one in Germany, and which with their subsidiaries are engaged in exploiting or financing the process invented by Professor Bergius of Heidelberg. But the Bergius process is in competition with other processes which were devised by Professor Franz Fischer and his associates at the Mülheim Coal Research Institute, with others elaborated by the I.G. in its own laboratories, and again with various foreign processes. The importance of these researches will be realized when it is remembered that the United States, which at present supplies 75 per cent and uses more than 80 per cent of the world's output of petrol, will have to reckon with its oilfields being so exhausted in a few years' time — assuming that the consumption of petrol goes on increasing — that in any case a great increase in the price of oil would be bound to result, unless new and very fertile fields should in the meantime be discovered elsewhere. This has always been the case up to now, and the Standard Oil Company has got control of this new output, in most countries. Even so the synthetic manufacture of benzine and other fuel oils is of the greatest importance.

The I.G.'s petroleum interests are concentrated in the Deutsche Gasolin-Gesellschaft, which arose out of the Olea Werke, and was purchased from the Stinnes concern. Both the Standard Oil Group and the Dutch-English concern are

participators in the Deutsche Gasolin A.-G.

Almost every year the I.G. Farbenindustrie undertakes some big financial transaction, a proof that in spite of its huge profits and its hidden reserves, its need of capital for fresh acquisitions and the introduction of new methods of production is very great.

In May 1928, 250,000,000 marks worth of 6 per cent participating debentures were very skilfully put on the market. They gave a right to a bonus dividend and also to the purchase of shares, and were offered to the ordinary shareholders at par in the ratio of four debentures to one share, with the immediate result that they went up to some 140 per cent. If the dividend declared exceeded 12 per cent, then the interest on these debentures was to go up $\frac{1}{2}$ per cent for each 1 per cent rise of dividend. Two hundred marks worth of these debentures can be exchanged for 100 marks worth of shares at rates falling from 200 per cent in 1928 to 100 per cent in 1941.

In 1928–9 there followed the foundation of two big participating and financing companies, with the double purpose of taking over the foreign subsidiaries of the concern, and at the same time forming a basis for tapping fresh sources of capital. The capital of the Internationale Gesellschaft für chemische Unternehmungen, founded in 1928 in Bale, was raised from 20,000,000 to 290,000,000 Swiss francs, 40,000,000 francs of which are 6 per cent cumulative preference shares. The 250,000,000 ordinary shares were offered to shareholders in the I.G. Farbenindustrie, and a dividend guaranteed on them equal to the dividend paid by the parent company. The first step was to entrust to the new company the I.G. participations in the American I.G. Chemical Corporation to be mentioned directly, in the Norsk Hydro Elektrisk A.-G. and in Durand & Huguenin, Bâle. As far as share capital goes, it is now the largest firm in Switzerland.

Then at the beginning of 1929 a similar company was founded to hold the American participations, the value of which was estimated at some 60,000,000 dollars. This was named the American I.G. Chemical Corporation : its principal subsidiaries are the Agfa-Ansco Corporation, which is the second largest film-manufacturing business in America, the Kodak Company being the largest; and the General Aniline Works, which exploits the I.G. dyestuffs patents and other inventions in the United States. The capital of the American I.G. Chemical

Corporation consists in the main of shares without any nominal value, but, besides these, 30,000,000 dollars worth of 5½ per cent convertible debentures have been issued, with the right of conversion into shares at a variable rate falling from seventeen A-shares of 1,000 dollars at the end of 1931 to ten A-shares of 1,000 dollars in 1938.

Considering the extraordinary range of its production, it is only natural that I.G. Farbenindustrie should be a party to a great number of other international agreements, among which the most important are the silk agreement with Courtaulds and other big manufacturers; the agreement respecting dyes and many other chemical products with the biggest French chemical concern, Etablissements Kuhlmann; and with the cartel or interest-group of the three big Swiss factories.

In 1929 very important international agreements were concluded in respect of atmospheric nitrogen between I.G. Farbenindustrie, the French Kuhlmann concern, and the English Imperial Chemical Industries, and with the Chilean producers. These agreements taken together exclude all competition in world markets. Reductions of price were also agreed upon, but the agreement does not include by any means all the producers of atmospheric nitrogen, which is now manufactured in a great variety of processes.

A great deal of attention was attracted by the recent financial alliance between I.G. Farbenindustrie and a firm engaged in a branch of production quite remote from the chemical industry.

I refer to its alliance with the famous Ford Motor Company. I.G. Farben. acquired a considerable portion of the capital of Ford's subsidiary for production and marketing in Germany, the Ford Motor Co. A.-G. of Berlin, raising its capital from 5,000,000 to 15,000,000 marks. The leading personage of I.G. Farbenindustrie, Geheimrat Bosch, came into the Board of the German Ford Company, while a member of the Ford family went on to the supervisory Board of I.G. Farben., and Ford junior became a director of the concern's American financing company, the American I.G. Chemical Corporation.

We have already mentioned the big English chemical trust Imperial Chemical Industries Ltd., which was formed on the model of I.G. Farbenindustrie. Of course, it too enjoys a position of absolute monopoly for a great many products. The whole

of the explosives trust (Nobel Industries, formerly Nobel Dynamite Trust Co.) has been absorbed by it.

In the linoleum industry an international trust gradually developed from quite small beginnings and stands under predominantly German control. It began by a small firm, the Bremer Linoleum-fabrik A.-G., acquiring in the first place large holdings in all the other works situated in the neighbourhood of Bremen, and then later on the majority of shares of Germania-Linoleumwerke, Bietigheim, now the largest works in the industry. The main purpose of the amalgamation was to centralize the whole of the sales machinery. It has agreements with the Koln-Rottweil A.-G., which manufactures a floor covering very similar to linoleum, and this agreement has now been inherited by the I.G. Farbenindustrie. Before the War linoleum was regulated by international cartels, especially between Germany and England, and these have been renewed after the War.

In 1926 there came a further strengthening of the ties between the linoleum firms; but this too was only in part an amalgamation. The 'Germania,' changing its name to 'Deutsche Lino-leumwerke A.-G.' and raising its capital from 7,000,000 marks to 30,000,000 marks, did completely absorb the two smaller works in Delmenhorst and the factory at Maximiliansau. But from the 'Bremer Linoleumfabrik' (which is now just a trade-mark) the Deutsche Linoleumwerke acquired the plant only, leaving this company to be the holding company for the whole concern; it now raised its capital from 11,250,000 to 15,000,000 marks, and received in return for its works half the capital of the Deutsche Linoleumwerke A.-G. There was also another holding company, the Deutsche Linoleum-Unternehmungen A.-G.

In 1928 the Deutsche Linoleumwerke's capital was raised to 40,000,000 marks; to that date the dividend distributed had regularly been 15 per cent.

Already existing agreements with Dutch, Swiss and Swedish linoleum factories led in 1927 to an international financial merger. In the first place there was founded in Zürich the Kontinentale Linoleum Union A.-G., which absorbed Deutsche Linoleum Unternehmungen A.-G. and took over the majority of the shares of the Swiss company in Giubiasco and of the Swedish company at Goteborg, the latter itself controlling a company in Lettland. Since all these companies participated in their turn in Kontinentale Linoleum Union, the result was a Chinese box system that cost

a great deal in taxation. In 1929 it was slightly simplified, when the Zurich company raised its capital first to 40,000,000 and then to 50,000,000 (or perhaps 46,000,000) Swiss francs and bought out the Dutch factory Krommenie. However, the bulk of the capital of the working companies still remains in the hands of the Kontinentale, and this again is controlled by the German group.

Since that year the concern has also acquired large holdings in the only big French linoleum factory, Soc. An. Rémoise du Linoleum (Sarlin), of Rheims. This was created with a capital of 70,000,000 francs with machines delivered on reparations account by Friedrich Krupp A.-G. Thus, apart from the one little German factory at Bedburg, there is only one outsider on the whole continent, a factory which is still building in Belgium. The Swedish cork concern Wicander, which surrendered its linoleum interests to the Linoleum-Union, receiving in exchange the largest holding in the Union after that of the Germans, was also responsible for founding in Poland the Erste Polnische Linoleumwerke A.-G. with a capital of 3,000,000 zloty; the trust also has holdings in this.

At this point we may consider what is perhaps the most singular of all the big trusts, and the one which most deserves the name of a World Trust, since in most countries it possesses a position of real monopoly, resting on the quite unusual basis of State licence and State encouragement. I refer to the Swedish Match Trust.

The Swedish Match Trust derives its power not from any cornering of raw materials, but primarily from the possession of a highly trained corps of workers, and from the exceptional organizing talent of quite a few persons. By the end of last century the Swedish match industry had formed important international connexions, and at the same time its home production had reached a high degree of concentration. In 1903 an interest-group consisting of seven of the biggest factories in Sweden was consolidated into the company Jönköping och Vulcans Taendsticks Fabriks A.-B., and this may be considered to be the beginning of the trust. At that time the principal competitors were the Japanese, and it was only after this amalgamation that they ceased to compete effectively.

However, the extraordinary international expansion of the Swedish match industry after the War is the work of a single man, Ivar Kreuger. Starting from the match industry, the building trade was the scene of his first ventures. His firm, A. B.

Kreuger & Toll, had already participated deeply in numerous Finnish, Russian and German concerns, when in 1913 he turned to the match industry, and amalgamated eight of the factories which had stood outside the Jonkoping & Vulcan concern to form the A.B. Forenade Svenska Taendsticks Fabriken. It went through a period of extraordinary expansion during the War, and in 1917 Kreuger was successful in bringing about the amalgamation of the two big concerns in the Svenska Taendsticks A.B. This was a holding company with an original capital of 45,000,000 kronen and the largest firm in the trade — it had previously been overshadowed by the American Diamond Match Company. Since that date the share capital of the company has twice been doubled, and now amounts to 270,000,000 kronen, on which for several years past a regular dividend of 15 per cent has been declared. The trust holds shares in subsidiary companies amounting to 297,000,000 kronen, and has a further 117,000,000 kronen in other foreign investments. The A.B. Kreuger & Toll now became a financing company for the whole match trust, and started grandiose sales organizations in the most various countries. Its share capital was raised from 28,000,000 to 130,000,000 kronen, and on this a dividend of 25 per cent has been declared every year for the last few years.

The Trust has subsidiaries, both, manufacturing and selling organizations, in many different countries, and notably in England — its principal markets being the Dutch East Indies, Africa and China. In 1922 a large number of its foreign subsidiaries were consolidated in the International Match Corporation, an American holding company with a capital of 28,000,000 dollars — which has now been increased to 47,250,000 dollars' worth of preference shares, and 30,000,000 dollars' worth of preferred ordinary shares without nominal value. This company acquired among other things Rockefeller's Canadian match factory, and one of the four big Japanese match companies, the Nippon Match Company.

In post-War Germany too the 'Swedish Trust' attained to a position of very great eminence. The question whether it had already made attempts during the inflation to get a statutory monopoly granted it by the German State must be left undecided for the present. At any rate it controls two of the three big factories in the trade, the two Cassel factories, each with a capital of 3,500,000 marks; with the third, the Union factory at Augsburg, it first concluded an interest-group contract, which

evidently included price-agreements, and then finally absorbed this too.

Thus there remained only a number of quite small match factories, combined in the Verein deutscher Zündholzfabriken. Then quite a number of these were bought up by the trust's German financing company, 'Allgemeine Zündholz-Export-Zentrale G.m.b.H.' of Hamburg; some of these were closed down, others were amalgamated into three big limited companies, 'Deutsche Zündholzfabriken A.-G.,' Berlin, with 11,800,000 marks capital; Nord-deutsche Zündholz A.-G., Berlin, with 2,000,000 marks capital; and Süddeutsche Zündholz A.-G., Munich, 5,000,000 marks capital.

By the installation of the very latest machinery the Trust has made its Cassel factories highly efficient, and so far improved the competitive power of the German national economy. But it was obviously aiming at a control of the price, since the competition which the remaining independent German factories could put up against it was now insignificant. In the summer of 1926 an agreement was reached between the Match Trust, which now controlled about 70 per cent of the German production, and the remaining German manufacturers, to the number of twenty-three. It resulted in the foundation of the Zündholzvertriebs A.-G., Berlin, with a capital of 1,000,000 marks, half of which was contributed by each of the two groups. On the other hand, the quota of the output to be marketed was fixed at 65 per cent for the Swedish, and 35 per cent for the German group. The Vertriebsgesellschaft was exclusively a sales organization, only the German Co-operative Wholesale Society being still permitted to manufacture for the co-operators' own requirements. Prices were fixed by the Board of the Zündholzvertriebs A.-G., but the Reich Government reserved to itself a decisive influence on the price, and it is interesting to note that the German share in the Zündholzvertriebs A.-G. was largely taken over by the Reichskreditgesellschaft A.-G. The Match Trust has also a controlling interest in other German undertakings such as, for instance, the Preussische Hypotheken-Aktienbank (Mortgage Bank).

Besides this use of its great capital power the Match Trust seems to be consolidating its position by getting control of the manufacture of match-making machinery. In any case it controls the most important Swedish match machine factory, thus ensuring the supply to itself of the newest machines, and seems in many countries to be making preparations to manufacture its own machines.

The Swedish Match Trust now supplies in twelve countries 80 per cent, of the demand; in seven others, including Germany, 50–80 per cent; and in most of the other countries less than 50 per cent.

In 1927 the Swedish Match Trust founded another holding company on a very big scale indeed, the British Match Corporation with a capital of £6,000,000. This took over the Trust's participations in a number of big British match factories, and in its Canadian, Australian, New Zealand, South African, and Brazilian subsidiaries.

The main Swedish finance and holding company, which controls the whole concern, also has a Dutch subsidiary, Kreuger & Toll, which has lately increased its capital from 1,000,000 to 10,000,000 gulden, and an American company, the Swedish American Investment Corporation.

The concern has made very large calls on the international investment market, and the Trust's shares have been dealt in in the most various countries. In 1929, through the issue of various debenture loans, it raised fresh capital amounting to about 110,000,000 dollars. Kreuger & Toll alone raised about 200,000,000 kronen.

The Trust spent these immense sums largely in buying State monopolies in return for loans. The magnitude of these is shown in the following table:

Poland	got 6,000,000 dollars at 7 per cent.
Ecuador	got 2,000,000 dollars at 8 per cent.
Greece	got 1,000,000 dollars at 6½ per cent.
Esthonia	got 7,000,000 kronen at 6 per cent.
Hungary	got 36,000,000 dollars at 5½ per cent.
Lettland	got 6,000,000 dollars at 6 per cent.
Jugoslavia	got 22,000,000 dollars at 6½ per cent.
Roumania	got 30,000,000 dollars at 7 per cent.
France	got 75,000,000 dollars at 5 per cent.
	making in all 685,370,000 Swedish kronen.

The Trust also has a monopoly in Peru, and as has been said, a 65 per cent share in the German market.

In Poland the State gets 5,000,000 zloty out of the profits of the monopoly company, whose capital is at present 100,000 gold francs; the International Match Corporation, which actually undertook the contract, gets 12 per cent of the invested

capital; the rest of the profits are to be divided equally between both partners. In Peru the existing factories are to be closed down and the demand supplied by importation from Sweden. For this monopoly the Trust pays the Peruvian State £20,000 a year. It is allowed to sell the box of 40 matches at about 18 Oere, i.e., at about ten times the price of the same box in Sweden (and here the price is three times the pre-War price). It is calculated that the Trust makes a yearly net profit of 1,000,000–1,500,000 kronen out of its Peruvian monopoly.

In Greece the Trust has the exclusive right of selling to the State match monopoly, the entire supply being imported.

In October 1927 the French State monopoly company contracted with the Trust for the exclusive supply of match-making machines, matchstick, Swedish and luxury matches in return for a 5 per cent loan of 75,000,000 dollars at 93½, which the Trust was not allowed to unload before March of 1930. Fifty million dollars worth of this was taken up by International Match Corporation, which issued for the purpose 10,000,000 dollars' worth of debentures at 98½.

In Roumania the Trust was granted a monopoly for thirty years in return for taking up 30,000,000 dollars worth of a 102,000,000-dollar loan. It guarantees the State a minimum revenue of 3,000,000 dollars a year, but is obliged to manufacture in Roumania.

In Belgium, too, the Trust recently acquired the greater part of the national match industry, which was comprised in the Union Allumettiere Beige. Other countries are still negotiating on the question of monopoly concessions.

While the German edition of this work was in the press, in October 1929, the Government of the Reich, with a surprising suddenness due to its unfavourable financial situation, concluded with the Trust a contract for a 6 per cent, loan of 125,000,000 dollars, which at the issue price of 93 brought in about 488,000,000 marks. In return for this the Deutsche Zündholzverkaufs A.-G. was granted a monopoly, so that in fixing its prices it no longer has to take any account of competition, and was enabled above all to eliminate the Russian imports, which had been greatly on the increase. The Reich naturally reserved to itself the right to control the prices charged. The price of a packet of 10 boxes was to be raised from 25 to 30 pfennigs. The Trust is thus assured of getting interest of at least 7 per cent

on its capital invested in German factories. A certain part of the monopoly profits are to be divided between the Trust and the Reich.

The Match Trust simultaneously with this deal made some very large new issues of shares through the medium of its principal companies, amounting to a total of 300,000,000 kronen worth in all; but these issues were only to a small extent employed in financing the German loan. The total capital of A.B. Kreuger & Toll is now increased to 216,000,000 kronen, with a reserve of 167,000,000 kronen.

The Swedish Match Trust is thus in the main a financial concern, which has been unusually clever in assembling a huge capital, and which in its financing operations even competes to some extent with the great banks. Still the value of its productive plant is estimated at at least 300,000,000 kronen, while the exchange value of the shares already issued to the public (exclusive of the last issue) is put at about 2,000,000,000 kronen.

A very large part of the capital of the Trust's companies is in English and American hands, but the Swedes are still the predominant partners. The shares of the Trust itself are quoted on the stock exchanges of Stockholm, Berlin, Amsterdam, London, Bale, Berne, Geneva, Lausanne and Zurich.⁵⁴

This system of granting credits in return for monopolies seems to be finding imitators. The Turkish gunpowder monopoly has been sold to the two big French companies L'Azote Française and Explosive Minélite, which formed for the purpose a joint company with a capital of 2,000,000 Turkish pounds, and also — characteristically — an English financing company for financing the undertaking, Oriental Industrial Monopolies Ltd., with a capital of £150,000 worth of preference shares and £7,500 of ordinary shares.

Chapter XXXIX: Trust Regulation In America and Germany.

On the question of trust regulation, American economic policy until very recently indeed seemed obsessed by the curious idea that its sole task was to stabilize as far as possible the system of open competition. It appeared to imagine that provided the individual was allowed the freest possible rein in his striving after profits, provided competition was allowed to rage as far as possible unchecked, then the 'natural' equilibrium of the national economy would come about of itself. In consequence of this the older trust laws, especially in dealing with the railroads, but also with other types of industry, simply tried to maintain open competition artificially, prohibiting contractual or financial combination of any kind whatever. They failed to realize that the state of open competition can never be completely attained, and that even if it could, its effects would often be far from desirable. The modern large-scale capitalist enterprise requires some sort of joint organization in order to diminish the risk to its capital; the former isolation of the individual firms, with the resulting violent competitive struggle between them, is uneconomic and involves a waste of capital resources. The task of the State — and this should be the supreme principle of its policy towards the cartels and trusts — should not be confined to artificially bolstering up the state of open competition, but must interfere with a view to eliminating the abuses which may result from the modern organization movement and the tendency to monopoly which with all these organizations is always lurking in the background.

In other words, an adequate trust and cartel policy cannot afford to be merely negative and simply forbid combination; it must recognize combination, and even monopolistic combination, as justifiable, and gradually try to delimit the bounds within which the methods and devices employed will be regarded as legitimate and beyond which they are anti-social.

Now in America State interference was rendered peculiarly difficult owing to the fact that corporation law lay within the sphere of competence of the *individual states*, which latter — to some extent under pressure from the trust promoters — showed themselves extremely jealous of their rights as against the Federal Government. Since, however, a company registered in any state of the Union has a right to trade in any other state (interstate commerce), the numerous anti-trust laws of the individual states — which in some cases rigorously forbade any kind of combination — were entirely ineffective, so long as *any* state refused to cooperate in this anti-trust legislation. Now Delaware and New Jersey, in particular, far from co-operating, passed towards the end of the nineties legislation giving the greatest possible privileges to any corporations registered in their territory. Thus the numerous anti-trust laws of many states were simply beating the air.

Federal regulation was first achieved in the domain of the railroads, since, in the case of this in some sense ‘natural’ monopoly, the need for some general regulation appeared particularly urgent. The *Interstate Commerce Law* of 4th February 1887 lays down that rates are to be ‘moderate and just’ (?), forbids pooling agreements for the sharing of freight revenues between competing railroads, and includes a ‘common carriers’ clause, obliging all railroads to accept all freights offered it. The law is intended above all else to maintain open competition between the railroads. The *Interstate Commerce Commission* which was set up at the same time was at first simply given the duty of watching over the execution of the law. Its powers were greatly extended by the Hepburn Act of 1908, which gave it the so-called rate-making power, i.e., the right of fixing maximum rates for the transportation both of goods and persons, wherever the rates charged by the companies appear to it to be excessive. This law also extended the railroad regulations to cover the pipe-lines and the Express Companies, which in America operate the parcel post; these too were made common carriers and compelled to accept all orders indiscriminately. This is

the first instance of the American State abandoning the principle of the mere upholding of open competition in favour of positive regulation.

The scope of the Interstate Commerce Law, which originally applied to the railroads only, was extended by the Sherman Act of 2nd July 1890, entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies.' It proposed to uphold open competition in interstate trade in all branches of business. The Sherman Act was supplemented by a number of other Acts, which were in the main tariff laws, e.g., the Wilson Act of 1894 and the Dingley Act of 1897, and above all by the Elkins Act of 1903, which declared that offences against the other laws committed by officials of corporations would be held to have been committed by the corporation itself, which might be fined up to 20,000 dollars for each offence. It was on the basis of this Act that the Standard Oil Company of Indiana was condemned to pay a fine of 29,000,000 dollars, but the decision was resisted, and never put into execution.

During the first twenty years after it was passed the Sherman Act was hardly once put into force. It was not till 1908, in consequence of the growing feeling of the general public against the trusts, that it was decided to enforce the Act more strictly. Numerous inquiries were held into the management of the big companies and their secret understandings with each other. Several trusts were dissolved, among them the Standard Oil Company in May 1911. The Standard Oil Group of to-day is a financial concern within which the various big companies, e.g., the Standard Oil Company of California and Indiana, hold a very independent position, so that even competition between them occasionally occurs.

Generally speaking, the dissolution of a trust failed of its effect. It proved impossible simply to tear the constituent companies apart, and their separation was often only a matter of form. On the other hand, it is important not to form an exaggerated idea of the degree to which the direction of a big trust is unified; this depends in the last resort entirely on the personalities concerned.

Above all else the American Government was anxious to enforce a greater degree of publicity in the business management of the big undertakings. In 1903 it set up the Bureau of Corporations, which was given a right of investigation, and what was at least equally important, a right of publishing the results of its enquiries. Originally

it was only intended to cover firms engaged in interstate commerce. Then a law of 1909 instituted a Federal Corporation Tax, and obliged all corporations to submit every year an accurate statement of their accounts. Besides the Bureau of Corporations there are many other authorities who have the right of requiring and publishing information. The principle of publicity has had much greater success in America than any legislative restrictions.

Not till the year 1914 did it prove possible to overcome the considerable obstruction put up against any serious regulation of the trusts. In that year two different Acts were passed which aimed at a more effective repression of the abuses for which the big corporations were responsible. A third Act, which aimed at repressing abuses in the financial management of the big transport undertakings, the railroads, telephone, telegraph and express companies, and at making the issue of new share capital by these companies dependent on the consent of the Interstate Commerce Commission, was passed in 1914, but its operation postponed for the duration of the War. In 1920 the amalgamation of railroad companies was actually facilitated by the Esh-Commins Act.

The first of the two laws referred to above was the Federal Trade Commission Act of 26th September 1914. This transferred the functions of the Bureau of Corporations to a Federal Trade Commission. The main principle of the law is 'that unfair methods of competition and commerce are hereby declared unlawful.' Unfortunately the Act gives no indication of what methods will be considered 'unfair' — the commission is given a completely free hand in this respect. The conception should thus not be assumed to correspond to our legal notion of 'unfair competition.'

If the Commission considers that the interests of the public demand it, it has the right of taking proceedings against any person or corporation which it has reason to suspect of employing unfair methods of trading. If the judicial proceedings confirm this suspicion, the commission may order that such unfair methods be desisted from. If the person or corporation does not obey it, it has recourse to one of the Federal High Courts of the United States, and demands the legal enforcement of its order, after laying the whole results of its investigations before the Court. The Court can confirm, amend or nullify such orders of the Commission as are the subject of an appeal to it.

The Commission further has the power to obtain from firms of the kind we are considering both annual and special reports of their activities; and to collect evidence bearing on the execution or otherwise of judicial orders consequent on infringement of the anti-trust laws, on the reconstitution of firms which have been dissolved for such infringement, and on the methods of trading of the firms and their subsidiaries in foreign countries, in so far as these might influence the foreign trade of the United States.

The provisions outlined above are now perhaps the most important part of the whole American trust legislation. By administrative measures alone, without the introduction of any legislation as to balance sheets, trading reports, forms of prospectus or other matters of company law, they have induced all the bigger companies not merely to compile accurate balance sheets and trading reports, but to publish them, and to have them audited by impartial auditors, the chartered accountants. The Federal Trade Commission accomplished this simply by keeping on demanding from the bigger companies such masses of information as in Germany are only required by the taxation authorities, while refusing absolutely from the start to keep this information secret in the way the German taxation authorities do. The result only confirms what I have been maintaining for years, that there is very little in the affairs of the big companies that needs to be kept secret.

The second important law is the Clayton Act of 10th October 1914. This is rather similar to our Cartel Ordinance of 1923, and like that ordinance has become important primarily through the attempts made under the Act to combat the abuses of the exclusive trading contracts, that most important of all the devices for acquiring or maintaining a position of monopoly. Like the Cartel Ordinance it does this not by any positive prohibitions, but by leaving the courts to decide where 'economic freedom of action is being unreasonably restricted' (Cartel Ordinance, §8). The Clayton Act uses the words 'to substantially lessen competition.' Only where this is the case have the courts to decide, just as they have under the Cartel Ordinance, the further question whether 'the economic freedom of action of the person or persons affected is being unreasonably restricted' (Cf. Part IV).

The Clayton Act deals in the first place with local price discriminations, i.e., aims at preventing the sale of some goods excessively cheap for the sake of breaking a

competitor, while making good the loss by selling others excessively dear. But these clauses of the Act have hardly ever been enforced. In the second place it deals with the so-called tying contracts, which practically correspond to what are known in Germany as exclusive contracts — obligations of exclusive trading and the like. The Act lays down that whether the goods concerned are patented or not, the sale of goods to, or the purchase of goods from, competitors shall not be excluded by contract, if such a contract would either create a monopoly or considerably diminish competition.

The Clayton Act also attempts to counter the financial manipulations of the trusts by means of the following provisions:

No corporate undertaking is permitted to acquire even a fraction of the share capital of another undertaking, if this is likely to lead to a considerable lessening of competition.

Acquisition of holdings in other companies is only permissible for the purpose of the investment of surplus capital, not for the sake of acquiring voting power in the other company. The foundation of subsidiaries is only allowed in so far as these may be necessary for carrying on the legitimate business of the parent company.

No one may be a director of two or more companies simultaneously, where the capital of the companies exceeds 1,000,000 dollars, and where the companies have formerly been in competition, if there is any likelihood of this competition being thereby eliminated.

No one may be a director, manager, or official of more than one bank or Trust Company (a combination of speculative bank and trustee business), if the bank or company has a capital of more than 5,000,000 dollars. No private banker whose property or deposited resources exceed this sum may be a director of any other bank as well.

The Federal Trade Commission has conducted numerous inquiries into the state of various American industries, and published the results in voluminous reports. Thus reports have been issued on the oil industry, the grain-marketing trade, the sugar, jam, meat-canning, leather, agricultural implement, boot and shoe, constructional timber and other industries. Its principal department is concerned with cases of dishonest trading such as in Germany are left to the ordinary courts, also with price-

discrimination, exclusive contracts, the acquisition of shares with the intention of suppressing competition, and the arrangement of interlocking directorates in firms which would otherwise be in competition with one another. (All this in execution of the Clayton Act provisions.) The extremely complicated form of proceedings instituted by the Federal Trade Commission consists of four parts — preliminary investigations, formulation of a charge, hearing of the charge, including the Commission's order to desist from the actions complained of, and the carrying of the case before the ordinary courts of law.

That these laws and organizations have had considerable success in dealing with the trusts cannot be disputed. But we most certainly cannot conclude that they have 'solved' the problem of the trusts in America. And here I am leaving entirely out of account the question of the distribution of income, which inevitably arises where there are gigantic capitalist undertakings, and merely referring to abuses which could be remedied without any special difficulty simply by an improved and unified company law. We still find fraudulent promoters taking money out of the pockets of the public. Big financiers still make vast profits by capital manipulations at the expense of shareholders. Capital power is still being employed, as numberless political scandals prove, to exert political pressure, and this again is misused for purposes of speculation.

In the last few years it would seem as if the offensive against the trusts was being pursued less energetically, obviously because the public hostility to them naturally dies down in periods of boom. Thus a number of decisions which have gone against the trusts have not been confirmed by the higher courts. Above all a tendency has shown itself to employ the force of the huge capital accumulations to promote export, and since it was generally feared that the conclusion of the War would be followed by an extremely violent competitive struggle between the nations, the most important recent law is one designed to *promote* combinations, viz. the *Webb-Pomerene Act* of 10th April 1918. It aims at promoting the formation of associations for export purposes, which associations might otherwise be prohibited under the Sherman Act, the provisions of that Act being thereby repealed so far as export associations were concerned. The principal objection made against the *Webb-Pomerene Act* was that it was likely to restrict greatly competition in the home

market. It was recognized that many of the big American firms did not by any means use these greater combination facilities for exportation purposes, but the reference to certain foreign and particularly German export organizations and the competition they put up did a great deal to get the Act through Congress. Directly after it was passed the two biggest American steel concerns after the Steel Trust united with a number of smaller firms to form the Consolidated Steel Corporation, with a capital of 10,000,000 dollars, as an association for the promotion of export. The U.S. Steel Corporation likewise founded the U.S. Steel Products Company for this purpose. The Standard Oil Concern also founded a special Standard Oil Export Corporation, and a still more extensive export organization for American petroleum is being planned.

The operation of the anti-trust laws was also restricted in other respects. Thus the Clayton Act forbade the application of the Sherman Act to workers' unions and industrial disputes, while a special Agricultural Exemption Law of 1922, the Capper-Volstead Act, exempted agriculture from the scope of the Sherman Act. This was with a view to encouraging the already strong growth of agricultural marketing co-operatives.

The principal aim of all measures for 'combating the trusts' should be to prevent a few persons acquiring control of large sums of mobile capital and using this to enrich themselves excessively at the expense of the people. But this is a very difficult problem and not likely to be solved at a stroke. The present condition of things is intimately bound up with the very rapid industrial development of the United States, and the freedom of trading which had to be conceded to the individual as the price of this rapid development. Still it must be admitted the Americans with their characteristic energy have already accomplished a good deal, especially by way of securing greater publicity. The next step in the task of regulating the trusts must presumably be the elaboration of an improved and unified federal system of company law, something on the lines of the German law of shares and share-issuing. We cannot do enough to make the Americans realize how much more democratic our institutions are in this respect, when compared with the company law of England and America, which permits a few big capitalists to exploit to their hearts' content whole branches of industry and innumerable small investors and workers. There is a great deal more that could be done to eliminate the abuses connected with the flotation and

management of big concerns; these ought to be far more drastically controlled by public opinion and by the State so as to ensure that they shall serve the interests of the people as a whole to a greater extent than they have hitherto done. It must be recognized that firms which comprise the whole of a trade and consist of a great number of different works cease to be purely private concerns and take on more and more the status of semi-public enterprises. In consequence, the general public must be given a much better chance than they have hitherto had of knowing what is going on and of defending their own interests.

All this of course will become practicable only in so far as America is successful in eliminating that corruption which is still extremely widespread there both in political and in economic life. The best elements in the American people are making great efforts in this direction, and there can be no doubt that they will one day be successful in solving the difficult problem of trust regulation and the prevention of the exploitation of small investors by big financiers. But certainly the prodigious profits made out of the War, the unbridled speculation to which it gave rise, and the extreme self-complacency of Americans — which is now increased by the political situation and was always out of all proportion to the facts of the situation — are circumstances which do not favour progress in this respect. It must however be recognized that the Americans, with an energy which we Germans would do well to copy in all kinds of ways, are making great efforts to eliminate economic and social abuses in their country. They are aided in this respect by the prodigious wealth of the country, the abundance of elbow room they enjoy both in their own country and over the whole continent, the lack of class distinctions and the absence of all those obstacles which check the development of German economic life. We undoubtedly have a great deal to learn from the Americans in the economic, the social and the political fields — though taking all in all I suppose no one will be found to assert that America has got further than we have in respect of true and genuine culture.

We shall now say a few words on the invasion of Germany by American trusts and on the counter-measures which have been tried or proposed. In Germany it has been above all the Oil Trust, the Tobacco Trust, the Shoe Machine Trust, the Cash Register Trust, the Sewing Machine (Singer) Trust, the Harvester Trust and the Kodak Trust that have been the most active in creating a market for their wares. All

of them have erected firms of their own in Germany, often with numerous branches. We have already discussed the methods of the first three of these, and also the Sewing Machine Trust. The Camera Trust (Eastman Kodak Co.) has been successful, by a policy of granting large commissions, in inducing dealers everywhere to favour its products, in spite of the fact that the German cameras are quite certainly superior to the American in respect of their optical qualities and precision of workmanship.

The American Cash Register Company by process of ruthless competitive warfare, and by the employment of trickery hitherto quite unknown in Germany (the systematic spreading of malicious reports about competing products, the buying up and offering of these at ridiculous prices, etc. — taking advantage of German tolerance and the slowness of the courts), has managed to ruin all its German competitors, and boasts that it possesses at its head-quarters a cemetery with the graves of more than sixty-five companies driven out of business by it. In America, on the other hand, it has done a very great deal to improve social conditions.

Before the War the penetration of Germany by the tobacco trust caused a great stir and led to the employment of counter-measures on the part of the German producers. This Trust was founded in 1890 with a capital of 25,000,000 dollars, whereas its five constituent companies are said to have been worth no more than 400,000 dollars at the time of its foundation. The promoters thereupon set about driving the price of its shares artificially up and down, and also kept founding new companies and selling them to the trust at high prices — e.g., the Union Tobacco Company, which was founded with a capital of 3,850,000 dollars, and immediately sold out to the trust for 23,850,000 dollars. In 1911 a decision of the courts compelled the trust to make a pretence of dissolving itself into a number of different companies, on which occasion it was referred to by the Attorney-General of the United States as ‘a company begotten in filth and born in sin.’ At that date its capital consisted of 53,000,000 dollars’ worth of 6 per cent bonds, 48,000,000 of 4 per cent bonds, 79,000,000 of preference shares, and 40,000,000, of ordinary shares. According to the characteristic practice of American institutions, only the latter category of shares had any voting power, and of these the majority, of course, was kept in the hands of the promoters, who were among the most notorious of American financial speculators.

The Trust, which controlled on the average 81 per cent of the total American

tobacco production, first took possession of the English market, which it exploited through the British American Tobacco Company. It then employed this company to penetrate Germany, buying up a number of German firms and concluding secret agreements with others. Other methods adopted were : underselling; the giving away of wares to break competitors; the granting of special rebates to dealers who undertook to stock trust material only; the violation of the trade-marks Acts — the imitation of the trade-marks of independent firms with a view to selling bad stuff under these trade-marks; the giving of rebate certificates in retail trade to any one who bought its products, these certificates being taken in payment in any shop of the trust to the extent of 10 per cent of the quantity purchased; the free presentation of complete shop outfits to dealers and frequently the payment of an additional bonus if the shopkeeper agreed to stock only wares belonging to the trust, etc., etc.

All this gave rise in Germany to a widespread counter-movement, which was organized by the 'Association for Combating the American Tobacco Trust' and which brought the public more and more to boycott the trust products. Plans were also drawn up for the nationalization of the cigarette industry, which had become the principal field of the trust's activities. But no serious steps were taken until the outbreak of war with America, when the American factories were acquired by a syndicate of German banks. Drastic measures have also been taken against the American Cigarette Trust in England, Switzerland, and other countries.

Steps to be taken by the State to prevent the penetration of Germany by American monopolists have been proposed in connexion with the *oil* supply; but the whole question was to a great extent bound up with financial considerations. State action never materialized, and owing to the completely changed conditions obtaining since the War, these plans have now only an historical interest.

The problem of combating international monopolies which are based on financial power is a difficult one at the present day, especially for countries that are weak in capital resources. Everything which was said in Part V of international concerns holds good of international trusts too. Still, international monopolist trusts are not easy to establish either; generally speaking, they are only practicable in the smaller specialist industries. Even so, the possibility of the financial control of whole industries through the overwhelming power of the American capitalist over an

indebted Europe is not to be dismissed lightly. It would take us too far from our subject to discuss here the economic effects of this foreign domination. We shall merely say that in our opinion the larger states with a considerable consumption of their own will always be in a position to force the foreign capitalist to produce in their country. Thus the international trusts will not accomplish much towards the rationalization of production until the European states and statelets give up their present policy of national exclusiveness based on protective tariffs.

Chapter XL: The Choice — Open Competition, Private Monopoly, or State Control?

Our account will have shown to what an extraordinary extent the fortunes of all the larger businesses are to-day intertwined with one another — a state of things which expresses itself now in cartels, now in concerns, amalgamations or trusts, and which may be aiming now at a better distribution of risks and a better equalization of profits within the bounds of one nation, now at capitalistic expansion and economic hegemony over other countries. Certainly, so long as we find capitalism everywhere in process of creating new forms of organization and so eminently capable of adapting itself to the many changes in the economic structure consequent on the War, it does not at all look as if it were on its last legs and ready to give place in the immediate future to a new socialistic form of economic organization. Nor should the fact that Germany's enemies, in pursuance of their war and peace aims, have made her the object of a capitalistic exploitation of unheard-of ruthlessness, drive us to see in socialism the only remedy for this state of things. In spite of all amalgamations and agreements we shall have to reckon with the individualistic or so-called capitalistic system for a long time yet.

In all countries the War increased the State's sphere of influence, and occasioned drastic State interference in numerous fields of economic life. All this gave new force to the idea of Socialization which had long been advocated, even before the political revolution in Germany brought it to the forefront in all discussions of economic problems. One of the first of the set of demands and plans put forward by

the constituent National Assembly was concerned with 'Socialization,' as if, in a Germany delivered up in defiance of Wilson's Fourteen Points to the tender mercies of her arrogant conquerors, there could be no more urgent task than that of effecting a sudden transformation of the established economic order. Such was the power of the ideals which a doctrine based on a series of fallacies had dangled before the eyes of a working class which now found itself in control of the State. Fortunately the majority of the responsible leaders of the working class proved wiser than the various bourgeois economists who now came out in support of socialism. The former recognized that the main task of socialization, which was to bring about increased production with diminished hours of work, was quite incapable of being realized under the conditions then prevailing in Germany. There only remained the consideration that the workers in socialized industries would be in a better position for securing improvements in wages and conditions of working — though of course this was bound sooner or later to bring them into conflict with the workers in the far more numerous industries which are unsuitable for socialization.

It certainly does seem to me that the workers would not be, even to-day, so obstinately attached as they are to socialization — in spite of the conditions being as unfavourable to its realization *as* they well could be — if it had not been held up to them for decades on end as the goal of all endeavour. Their trade unions and the political power which accrues to them from their large numbers make them perfectly capable of securing their due share of the national income and of cutting the capitalists' share to the bone. By means of their wage-demands in conjunction with the high rates of taxation they may soon attain their aim — which is in itself perfectly justifiable — that henceforward none shall receive income without work. On the other hand, the notion that the workers with their high wages will be able to consume more without producing more will always be refuted by the nature of things; this is a law which no amount of socialization can change. The only result of putting more and more departments of economic life entirely in the hands of the State would be prodigiously to intensify the struggle for political power. This could only end in the economic proletarianization of Germany, and its spiritual and intellectual proletarianization would soon follow.

Even though most socialists now recognize the impossibility of Germany by itself

going over to Socialism while the rest of the world remains capitalist, still the opinion is extremely widespread that the World War with the tremendous economic upheaval it produced spelt the end of Capitalism and the beginning of the transition to Socialism. Thus the combat between the two parties of Capitalism on the one side and Socialism on the other still plays a big part in national life, even while it does not seem so acute as it did at the beginning of the Revolution, when people still looked on Russia as the model, believed in the socialist mission of defeated Germany, and confidently expected that the rest of the world would follow her lead. Both parties feel that they have some economic arguments in their favour. Those who uphold the present economic system assert that in the socialist state the efficiency of the worker and thus also the volume of production would be greatly diminished; whereas the adherents of Socialism — though their arguments do not seem very plausible — expect a greatly increased volume of production from the regulation and planning which the socialist State would introduce and from the greater contentment and joy of the worker in his work which they say would follow. We thus have a clear-cut conflict between the two opposite poles of extreme individualism, based on the appetite for private profit, which certainly had ample opportunity of satiating itself during and after the War, and thorough-going Socialism, which sees the panacea in a general ‘communization’ of the means of production.

To push everything to extremes is the characteristic error of immature political thought. This shows itself particularly clearly both in economic and in political life. Until recent times a false economic theory had impressed on the workers that the desire for gain was a peculiarity of the employers, and that their ‘profit’ was due to the exploitation of the workers and the withholding from them of the ‘surplus value’ which they themselves had produced. There was the additional fact that the workers were the first and the worst sufferers from the principle of open competition, since they were less able than the other parties in production to restrict competition by means of monopolistic associations; the coalitions they did form for this purpose were until very recently often restricted and obstructed by legislative or administrative means. It is thus no wonder that they came to see their salvation in the opposite extreme of universal State monopoly, and to believe that the realization of such a monopoly through the conquest of political power was the only thing which

could satisfy the aspirations of the workers. Thus they came to demand Socialism, which in its economic aspect — and of course this is only one of its aspects — aims at a general State monopoly and the abolition of private property in the means of production.

The development of cartels and trusts had given force to this demand, although the former at least of these types of organization was never foreseen by the leaders of Socialism. The demand grew ever more insistent that these private monopolies should be replaced by State monopoly — either by one general monopoly or by the transference to public departments of the working of all the most important industries. For many decades the workers had had hammered into them the notion that the abolition of private ownership of the means of production was the necessary and the ideal goal of the economic system. Marx teaches us that this new economic order is bound to arise of itself out of the foregoing one, though of course the workers can at any time inaugurate the new order, if they choose, by way of revolution. A large number of people, even such as are not, strictly speaking, to be considered as Socialists, regard it as axiomatic that the course of future economic development will conform to the predictions of socialist theory. ‘Economy shall no longer be the affair of the private individual,’ writes Walther Rathenau, ‘but of the whole community’ — which does not of course prevent this same author in other writings from making precisely the opposite demand. To many professional economists too this is really a matter of faith, as, for instance, to B. W. Sombart, who explains in his book, *Der moderne Kapitalismus*, how the present capitalist era is already giving place to the socialist. The upholders of this view no doubt abandon many of Marx’s theories about the future, especially, for instance, his so-called ‘impoverishment theory,’ according to which the position of the workers will get worse and worse until they make up their minds to free themselves by way of revolution. But they hold fast to his so-called ‘accumulation’ or ‘concentration theory,’ according to which the small capitalists and small producers will be displaced more and more by the big ones, until in the end the greater part of the national wealth is concentrated in the hands of a few capitalist magnates. These will then finally be expropriated by the great mass of the other citizens, the so-called ‘proletariat,’ and so the socialist State with its abolition of private ownership of the

means of production will be born.

All these proposals seem to regard it as a matter of indifference whether the means of production are transferred to the State, or to some other administrative body, 'society' or 'a community' and the like — such are the remarkably vague terms in which the theory is expressed. In the present passion for organization, which readily equates Socialism with 'organization' in general and never penetrates beyond the surface of the problem, there is a general failure, due to lack of real theoretical grasp, to recognize that the fundamental thing in an economic system is not its external form but its regulating principle. The decisive question therefore is, whether free exchange and price-formation on the basis of individual desire for gain should be retained, or whether it should be replaced by a general 'distribution' from above, which, in the last resort, would have to be effected by the State, as the supreme source of power and authority. In the former case, it is of course perfectly possible to socialize particular branches of trade, in the sense of handing them over to some community or other, but the State will always have to regulate the prices of such products in relation to the prices formed through free exchange. In this case the economic system remains governed by the private desire for gain, just as much as ever it was; and if the State becomes owner of the socialized industries, it too will be very strongly influenced by the same de'sire for gain.

Alternatively, private desire for gain might be everywhere excluded, even in agriculture; and then the State as the supreme political organization will have to establish new principles for the distribution of the products, whatever the external form of organization may be called, whether social or communal economy, whether State socialism, guild socialism, or co-operative socialism. It is in this question of distribution, not in that of production or in the form of productive organization, that the problem of Socialism lies. Here however human powers of invention have failed, and the proposals made by innumerable socialists for a distribution according to hours of work performed and the like are extraordinarily childish and clumsy when compared with the delicate mechanism of modern exchange; in fact they could only have been proposed as the result of a complete misconception of the process of exchange.

It would therefore be far better, and quite in accord with the fundamental Marxian

philosophy of economic determinism, to observe the possibilities of organic progress within the existing economic order, instead of constructing arbitrary principles of distribution; and to content oneself with trying to influence this order in the direction of greater social equity. Thus we ought first of all to consider whether there are not tendencies towards improvement to be found in the present economic system, and whether it should not be possible, given proper direction by the State, to eliminate the present abuses by some speedier and more painless method. The favourite argument that private monopoly is extending more and more through cartels and trusts, and that State monopoly is invariably better than private monopoly, cannot be accepted without qualification. It may still be inquired whether the disadvantages of private monopoly could not be eliminated by other and less drastic methods. Thus it is incorrect to speak of industries like the electrical or chemical industries, in which the process of concentration has already gone a long way, as necessarily 'ripe for nationalization' or 'socialization.' Such assertions spring from a one-sided view, from having regard to external forms of organization only. It is far more important to decide whether public administration is suited to conduct the functions of exchange in the particular industry, whether an administration of this kind, even assuming that the persons directing it are paid not on the normal official scale, but perhaps a great deal higher, and even assuming that they are given an interest in the profits by means of percentage bonuses, will prove capable of fitting into the general structure of the market and adapting themselves to its requirements. In most fields of business activity experience with such administrations has not been very encouraging, and the German national economy at the moment seems particularly ill-fitted to conduct experiments of this kind, since they usually prove quite extraordinarily expensive.

For these reasons I find myself unable to agree to the idea advocated by many socialists of having one general 'planned economy' (Planwirtschaft). In the typical German doctrinaire spirit the socialists favour every extension of the State's activities, every kind of interference by the State in economic life in the belief that it is all paving the way for a new economic order. On the other hand, they invariably fail to provide any principles which should guide the State in its interference. They content themselves with phrases such as 'interests of the community as a whole' or

‘the common weal’ which must be protected, and with the setting up of controlling authorities to whom is left the task of deciding where such interests of the community are affected. There is nothing whatever to be gained from the State organizing all firms compulsorily in trade associations, and prescribing to them their prices and volume of production. The administration, especially in a democratic State where Parliament is determined to have its say on every matter at all costs, is far too cumbrous for the Government to undertake the adjustment of supply to demand, and — which is the decisive point — to assume responsibility for the interests both of the producers and of the public. This would in fact be to dethrone the desire for private profit from its place as organizing principle of exchange, but its injurious effects would still remain, since it would keep attempting to satisfy itself by way of controlling the political authorities. I consider ‘planned economy,’ i.e., planned interference in economic life, to be far more desirable, and even perhaps necessary, in respect of the choice of occupations — that the State should regulate the entry into all the various branches of manual and intellectual work. Were the State to pursue a far-sighted economic policy in this respect, it could bring about the necessary process of readjustment of the German economic apparatus far more easily than through the direction of enterprise or of capital. It might very well take in hand the necessary placing of young workers in agriculture through the medium of an energetic small holdings policy, possibly in connexion with the enforcement of universal compulsory labour for a certain period (e.g., a year of compulsory labour service). But in this field practically nothing has been done hitherto. With regard to the very newest catchword of all — ‘economic democracy’ — exactly the same is true as with the so-called ‘planned economy.’ It is desired to give the worker the greatest possible share of responsibility in the management of every kind of business corporation, from the individual firm up to the big cartels, concerns and trusts. In itself this claim is perfectly justified and no objection can be made to it. It is certainly desirable that the workers through their representatives should be given an insight into the working of the various ‘capitalist’ organizations, and this is in fact provided for to-day through the Works’ Councils and the workers’ representatives on the compulsory cartels. They will soon realize that the supposedly peculiar ‘capitalistic spirit,’ of which even non-socialists like Sombart are so fond of talking, is nothing

else than the universal desire for gain which inspires them too. But the contention of the supporters of economic democracy that the workers on the boards of firms and in all their own organizations always represent the interests of the community' is absolutely false. Such a claim is quite unjustified, in Germany in particular, so long as the idea of the class war continues to play such a large part in the minds of the workers. And therefore employers will continue to regard such demands of the workers with justifiable suspicion, so long as 'economic democracy' is demanded with the aim, expressed or tacit, of employing it for the gradual realization of socialist ideals. By this means business life would be brought into a position of ever-increasing dependence on the holders of political power, and this is in fact their aim. The question of the right relations between the State and the economic system is coming more and more to involve the individual's whole world-outlook. But so long as no one has any new principle of distribution to propose, it is extremely risky to let personal beliefs or considerations of politics interfere in an individualistic economic system. A truly responsible economic policy will thus have to steer clear of all Utopian hopes of the future, and confine itself to making equitable adjustments in the existing economic system and alleviating social hardships.

All this is not suggesting that it would not be possible to eliminate private enterprise in a number of trades. And this may be even more the case in respect of ownership or possession, than in respect of the actual plant or works. For instance, there can be no doubt at all that building land in the neighbourhood of the larger towns is best kept in the hands of public bodies, to be used for the advantage of the public as a whole. This would not be the place to go into the whole problem of socialization. The whole question has to-day become almost more one of political power and principle than a strictly economic question; it has become a class ideal, to some extent an extremely egoistic, 'private-profiteering' ideal of certain groups of workers who expect to get higher wages as State servants than in private firms which have to consider things from the standpoint of profitability; all considerations of what is economically desirable, of an increased satisfaction of demand, are left quite out of the picture.

The far-reaching regulation of important branches of production by the State, the establishing of a number of controlling authorities, the greater association of workers

and consumers in the exercise of this control, even the fixing of maximum prices — all these are not Socialism. Socialism only results after the abolition of private ownership of the means of production — this is the juristic aspect of the matter — and after the abolition of private profit as the organizing principle of exchange in general and price-formation in particular — this is the economic aspect of the problem. This latter requirement is infinitely harder to satisfy and also more fundamental, because the former, the mere transference of the means of production into public ownership, by no means eliminates profit-seeking as between the various branches of production. The State in its turn both can and usually will administer its businesses with a view to profit, and in any case is obliged to fix its prices with reference to the prices formed in the open market. The abolition of the open market, or to state the matter in its positive aspect, its replacement by a new principle of distribution — this is the great unsolved problem. No one up to now has been able to outline the basis of a new economic system, which should be capable of replacing the delicate mechanism of free exchange governed by the desire for private gain and at the same time of calling forth, as free exchange does, the utmost possible exertion of all human powers and faculties.

It would thus be better for the present to accept the existing economic system and try to eliminate those abuses under which the working class suffers; to inquire whether some organic progress on the basis of the existing system is possible, supposing it were to be directed by the State along the right lines. And such tendencies towards the progressive improvement of the present economic system can no doubt be discovered. The more the joint-stock system is extended, the more the business management of big firms is controlled by the public, the more the income of the workers improves, the more excessive differences of income are levelled by progressive taxation, the greater will be the possibility or rather necessity of a wider distribution of share ownership, so that more and more people come to participate in the profits of the big firms. In this way, the gulf between producers and consumers which to-day seems unbridgeable may one day disappear, when all the consumers have become shareholders in big companies. The co-operative movement works in the same direction, though by quite different methods. It should not attempt to turn the workers themselves into producers; there is no point in this and it is quite

impracticable — producers' co-operatives will never have more than a very limited scope. But it has two important tasks to accomplish : on the one hand it must ensure the continued existence of independent small-scale producers, who are indispensable both from an economic and from a social point of view, in agriculture especially; and on the other it must save the consumers from being delivered up defenceless into the hands of the producers.

If the State makes up its mind to encourage these organizations, while at the same time subjecting the big firms to a large measure of public control and ensuring that their profits are widely distributed, it may retain the principle of private gain-seeking, and yet do a great deal more to secure satisfactory economic and social conditions than would be possible through general socialization or abolition of private property in the means of production, as demanded by socialist dogma. A supervision of the process of price-formation, a large measure of control over all monopolistic associations (and not merely of producers' associations) such as we have proposed will undoubtedly be necessary. But concerns and monopolistic combinations are necessary if the 'anarchic conditions' of production are to be abolished — the frequent waste of invested capital, the heavy losses accruing in the competitive war. On the one hand they will facilitate the standardization of demand, on the other enable production to adapt itself more successfully to changes in demand, thus preventing any uneconomic idleness of the mechanism of production. One of the most important duties of economic policy is to give the utmost possible support to the efforts which some of our industrials are making to diminish the violence of crises, efforts which go back to the pre-War period; and the governments have shown that they recognize this duty through their creation of Institutes for Conjecture Research (Institute für Konjunkturforschung), their improvement of the statistics of production and consumption and the like. State cooperation in price-fixing, and State interference in the price-policy of producers and dealers, or again in the wage arbitration system, must all be carefully considered. Socialism is certainly right in thinking that the sphere of State economic action will certainly be extended still further. But the striving after private gain which is the mainspring of modern economic life and which inspires the workers just as much as it does the employers, must not be eliminated. On the other hand, the proletarians must be given

a better chance of climbing, and must be given an interest in production by means of profit-sharing schemes. The necessary and socially valuable levelling up of incomes is best accomplished by means of the taxation system. Taxation, and above all a high rate of inheritance tax, with the taxing out of existence of all big profits from speculation or gambling, would, if energetically carried through — that is to say, if all overdue taxes were rigorously exacted and evasion made practically impossible — accomplish more in a relatively short time than any amount of dabbling in socialization, ‘works communities,’ guilds, and all the other new social nostrums. To this might be added the taxation of differential returns recommended by the minority report of the Socialization Commission, the practical difficulties of which are by no means insuperable.

Had the economic system been left where it was, instead of being subjected to the severest possible trial in the catastrophe of the World War and to the subsequent attempts to get the old socialist ideals put into economic practice as quickly as possible, I very much doubt whether any socialist system would have developed. The trend of economic development before the War showed no tendency towards Socialism. And if the socialist scheme is now to be realized, this will not be the result of any economic necessity, as Marx with his economic determinism imagined, but of ideal forces being realized by the capture of political power. It can already safely be said that not merely our standard of living but our culture also would suffer severely from any such experiment. These ideals may lead to the starvation of many millions.

I therefore still hope that we shall choose the perhaps slower but less drastic way of organic progress — that the new economic order may come about by a growth from within, and not be merely imposed by political force. If this is to happen, certainly a great deal of intellectual and spiritual work will be necessary, if only for the sake of diffusing a more adequate understanding of the facts of economic life. It will involve a long struggle with the doctrinaires of the right and the left before they come to recognize that this way is the best. The parties of the right will have to recognize that the rights of private property and in particular the right of inheritance can very well be restricted, and that the present class distinctions cannot possibly be maintained; the parties of the left must recognize that the economic system cannot

be turned inside out in a day, and that no new principle of distribution has hitherto been proposed. A spirit of greater social responsibility must be developed in all classes of the population, with the abolition of social and class distinctions; in the eyes of the better elements among the workers, whose view is not confined to the merely material, all this appears just as important as the improvement of their material position, and rightly so. Perhaps then in the process of slow organic transformation of economic life, human character may also gradually be transformed, until self-interest is no longer the motive, or at least no longer so exclusively the motive for working, and so the organizing principle of supply and demand. Then perhaps — and this would be the natural course of development — the new social spirit would start to build itself a new social body. But all this implies a certain surplus of production which a socialized economy under modern conditions, when individual selfishness is more blatant than it ever has been, is not at all likely to effect within a reasonable time. This statement may be said to have been already proved by experience. Thus we cannot recommend that Germany, particularly in her present situation, should base her whole policy upon such a hypothetical transformation of human nature, though she ought to take all possible steps to educate human nature in this direction; and it would certainly not be advisable to draw up our economic policy of to-day as if this ideal had already been realized. Our task to-day is to produce as much as possible, to tide our people as quickly as may be over a time of scarcity such as we have not known for many decades, a scarcity which is not merely embittering all our economic disputes, but which is undermining the sense of justice, the feeling for order, and even the physical vitality of large sections of our people. To this task we must bend all our energies. It cannot for the present be solved by any communal economy' imposed from above, but must for a long time to come be based on private desire for gain, though — and this is important — the chance of satisfying this must as far as possible be the same for all, and its operation must be kept under public control.

Appendix I: Ordinance Against The Misuse of Economic Power Promulgated 2nd november 1923

In pursuance of powers taken in the Law of 13th October 1923,⁵⁵ the Reich Government ordains:

§1

Contracts and resolutions which involve firms in respect of production or marketing policy, or which prescribe conditions of trading, methods of price-fixing or prices to be demanded (syndicates, cartels, conventions and the like agreements), must be in writing.

§2

Contracts and resolutions of the kind specified in §1 are null and void if one party shall have demanded and the other given his word of honour or any similar solemn affirmation with a view to giving additional force to the contract or resolution.

§3

Contracts and resolutions of the kind specified in §1 are null and void if they exclude appeal to the Cartel Court (§11) or put any considerable difficulties in the way of such appeal, or obstruct or diminish the effectiveness of this ordinance in any other way.

§4

Should a contract or resolution of the kind specified in §1, or some particular application of such contract or resolution, endanger the national economy or the public interest, the Reich Minister of Economic Affairs may either (1) apply to the

Cartel Court for a declaration that the contract or resolution is null and void, or for an injunction restraining the particular application of it (§7); or (2) order that any party to the contract or resolution may terminate the contract or withdraw his adhesion to the resolution at any time without notice; or (3) order that a copy be forwarded to him of all agreements or instructions drawn up with a view to the execution of the contract or resolution, and that such agreements or instructions shall not take effect until after such copy has been forwarded.

The national economy or the public interest will be held to be endangered where production or supply is restricted or prices raised or kept up or 'risk-premiums' demanded in the case of index-number prices to an extent which is economically unjustifiable, or where economic freedom is restricted by means of buyers' or sellers' boycotts or inequitably affected by the fixing of differential prices and conditions of sale.

§5

In case of a declaration of nullity conformable to §4 par. 1 cl. 1, or to §7, or an order conformable to §4 cl. 2 or 3, the Reich Minister of Economic Affairs may order that the obligation to submit documents contained in §4 cl. 3 shall also apply to future contracts and resolutions of the kind specified in §1, wherever

(1) all the same persons or a considerable number of the same persons are parties to them; or

(2) persons are or may be employed in the position of directors or advisers who have already been party in the capacity of director or adviser to a contract or resolution to which exception has been taken on the ground of §4; or

(3) the contracts or resolutions have reference to the same class of goods or services.

§6

The Reich Minister of Economics may cancel an order which he has made under §4 par. 1 cl. 2 or 3 or under §5, in case of a subsequent change in the circumstances occasioning the order. An order shall take effect as from the time of its delivery.

§7

In a case to which §4 par. 1 cl. 1 would be applicable, the Cartel Court, if it considers the charge of endangering the national economy or the public interest to

be proved, shall declare the contract or resolution null and void in whole or in part, or shall prohibit the particular application of it. If it considers the order provided for in §4 par. 2 cl. 2 to be sufficient, it may issue such an order instead of the said annulment or prohibition.

If the Cartel Court declares a part only of a contract or resolution to be null and void, it shall decide whether and to what extent the annulment of this part implies the annulment of other parts of the contract or resolution.

The Cartel Court may cancel an order made under par. 2 cl. 1, in case of subsequent change in the circumstances occasioning the order.

§8

Contracts or resolutions of the kind specified in §1 may at any time be terminated without notice by any of the parties for urgent cause.

The inequitable restriction of the economic freedom of the party terminating, especially in respect of production, marketing or price-fixing, will always be regarded as urgent cause.

In case of dispute as to whether the termination of the contract was admissible, the Court shall decide such dispute on the application of one of the parties to the contract or resolution. The application must be made within fourteen days from delivery of the notice of termination. If such application is not made within such period, the termination is deemed to be effective.

§9

Securities may not be realized and boycotts or other sanctions of a similar nature may not be applied with a view to giving effect to contracts and resolutions of the kind specified in §1, except with the consent of the President of the Cartel Court.

Such consent will be refused if the sanctions proposed would involve danger to the national economy or to the public interest, or would restrict inequitably the economic freedom of the person or persons affected.

Such consent will be held to have been granted where the President shall not have taken any decision within three weeks of submission of the request for his consent.

In the case of contracts and resolutions which affect only one of the federated states or only parts of one state, the Reich Minister of Economics by agreement with the government of the State in question may order that some other authority shall be

competent to give his consent in place of the President of the Cartel Court.

Any one of the parties affected may appeal to the Cartel Court against any decision of the President, or of the authority appointed in his place under par. 4, within seven days of delivery to him of the decision appealed against.

Securities must be restored to their owners in the case of §4 par. 2 cl. 1 immediately on receiving notice of termination, in the case of §8 immediately on expiration of the period specified in §8 par. 2 or immediately after delivery of a decision of the Cartel Court declaring the said termination lawful.

Agreements which involve any disadvantage to any person in consequence of non-participation in a contract or resolution, are null and void as against a person terminating them under the provisions of §4 par. 2 cl. 1 and §8.

§10

Should the conditions of trading or the methods of price-fixing employed by any undertaking or combination or amalgamation of undertakings (trusts, interest-groups, syndicates, cartels, conventions or similar combinations) appear likely to endanger the national economy or the public interest through the exploitation of economic power (§4 par. 2), then the Cartel Court on the proposal of the Reich Minister of Economic Affairs may issue a general declaration permitting all injured parties to all contracts of the category referred to above to terminate their contracts without notice. If there is reason to suppose that the contract would have been concluded apart from the provision or other characteristic in it, to which objection has been raised, then the decision of the Cartel Court only authorizes non-fulfilment of the objectionable conditions of trading, or of a price-agreement resulting from the objectionable methods of price-fixing.

In the case of contracts where there is an obligation to perform a number of independent partial services (contracts for successive deliveries) termination is not permissible in respect of partial services which have been completely performed by both of the parties.

The decision of the Cartel Court will be made public in such way as the Court itself shall determine.

The right of non-fulfilment lapses unless a declaration that the contract is terminated is made within fourteen days from the publication of the Court's decision.

Contracts containing the provisions objected to concluded after the publication of the Court's decision, are to that extent null and void. The case of such contracts will be governed by §139 of the Civil Law Book.

Cases of dispute as to whether or to what extent termination of a contract under pars. 1 and 2 was admissible, or as to whether contracts are null and void in whole or in part under par. 5, will be decided by the ordinary courts.

Either on the proposal of the Reich Minister of Economics or on its own responsibility the Cartel Court may annul or amend a decision given under par. 1, where the circumstances on which its decision was based have changed. Its decision shall be made public and has effect from the date of publication.

§11

The Cartel Court is a part of the Commercial Judicature of the Reich. It is composed of a President and four Assessors.

The President and his deputy are nominated by the President of the Reich. They must be qualified to hold judicial office.

The Assessors are nominated by the President of the Reich Commercial Court. One Assessor is a Councillor of the Reich Commercial Court; in his case the terms of §5 of the Ordinance of the Commercial Court of 21st May 1920 as interpreted in §65 of the Compensation Ordinance of 30th July 1921,⁵⁶ in respect of nomination by the President of the Reich, are inapplicable. Two Assessors are to be nominated with regard to the opposing interests concerned. The remaining assessor is to be a person with expert knowledge who may be expected to represent the interests of the community and be independent of the opposing business interests. The assessors under cl. 2 and 3 are to be nominated from lists drawn up by the Reich Minister of Economics.

§12

The jurisdiction of the Cartel Court is an exclusive jurisdiction.

The decision of the Cartel Court is final and binding on all courts of law and all courts of arbitration. The competence of the Court cannot be called in question.

Where the decision of a dispute at law involves either in whole or in part a decision as to fact within the competence of the Cartel Court, the Court shall adjourn the proceedings until the Cartel Court shall have given its decision. The parties to such

dispute have the right of applying to the Cartel Court for decision where the Reich Minister of Economics has either refused to make application or has not made application within fourteen days after receiving a request to do so.

§13

Where such procedure appears desirable, the President of Cartel Court may decide a case without Assessors.

Appeal may be made to the Court within three days after delivery of the President's decision.

§14

The Reich Minister of Economics, in cases where it appears to him desirable, may in the first instance take proceedings before one of the Conciliation Committees attached to the trade associations.

§15

At the request of a State government the Reich Minister of Economics shall consider which if any of the measures provided for by this Ordinance he will take. If the request is for steps to be taken under §4 par. 1 or §10, then the Reich Minister of Economics shall either give effect to the request within fourteen days, or at the desire of the State government shall submit its request to the Cartel Court for decision.

§16

The Reich Minister for Food and Agriculture is empowered to undertake the duties specified in §§4–6, §9 par. 4, §§10 and 12 par. 3, and §§14, 15, 17 and 20, within the limits of his special competence.

§17

A person who intentionally contravenes the provisions of this Ordinance in respect of the nullity of contracts or resolutions (§§1–3, 7, 9 par. 7, §10 par. 5, or §21) or the provisions of §4 par. 1 cl. 3, or of §§5, 9 par. 1 or 6, may on the proposal of the Reich Minister of Economics be awarded a disciplinary punishment. This punishment shall consist in a fine, to which no maximum limit is attached.

§18.

Any person found guilty of injuring another in respect of his social or economic existence in consequence of the latter having taken advantage of his rights under §4

par. I cl. 2, §§8, 10 par. 1, 2, or §12 par. 3 cl. 2, or having proposed the issuing of an order or the taking of proceedings under §§4, 5, 7–10, 15, 16, or with the intention of deterring him from taking advantage of these rights, shall be punished by a fine and by imprisonment.

§19

The provisions of this Ordinance shall not apply to Combinations which have been formed in pursuance of a Law or of an Ordinance, nor to conditions of trading or methods of price-fixing (§10) which have been ordered by the supreme executive authority of the Reich or of a state within the limits of its competence, or which require the consent of such authority.

§20

The Cartel Court or its President shall give its considered opinion on any questions arising out of this Ordinance which may be laid before it by the Reich Minister of Economics for its decision. Before giving such opinion it shall if requested to do so by the Minister hear evidence from any national trade federations concerned.

§21

Where a contract or resolution of the kind specified in §1 has been concluded before the coming into force of this Ordinance and is not in writing, it shall become null and void except in so far as it shall have been confirmed in writing within three weeks after the coming into force of this Ordinance.

Where such confirmation by one of the parties to the contract has not been laid before the Court within fourteen days of the coming into force of this Ordinance, the President of the Cartel Court may order the substitution of a fresh contract at the request of any other party to the original contract. The request must be made within seven days after expiration of the period specified in cl. 2. Confirmation by the President of the Cartel Court is deemed to have been granted at the time of making the request for confirmation for the purposes of the period specified in cl. 1.

Contracts or resolutions of the kind specified in §1 concluded before the coming into effect of the Ordinance are null and void where one party shall have demanded and the other given his word of honour or made other solemn affirmation, except in so far as they have been confirmed within fourteen days of the coming into force of this Ordinance without any such solemn affirmation being given or required.

Robert Liefmann, *Cartels, Concerns and Trusts*, 420

§22

The Reich Minister of Economics shall issue orders as to procedure before the Cartel Court and such other regulations as may be necessary for the putting into effect of this Ordinance.

§23

The Ordinance comes into force on 20th November 1923.

sd. Dr. Stresemann, Chancellor of the Reich

Dr. Koeth, Reich Minister of Economics

Berlin,

2nd November 1923.

Appendix II: Cartels And Concerns In The Present World Crisis⁵⁷

Survey Of The Problems.

After the Revolution of 1919 there was a widespread belief in Germany that we were 'in full transition to a new economic order'; that it was questionable whether the capitalist system could maintain itself at all, and that in any case the cartels would lose greatly in importance. Many besides the professed socialists were convinced that capitalism would shortly be replaced by socialism. I pointed out at the time that there was a danger of overestimating the importance of the Russian and German revolutions, since the rest of the world showed no intention whatever of giving up capitalism, particularly as the superiority of another form of organization had by no means been demonstrated.

To-day more than twelve years have elapsed and it may be admitted that the capitalist system has not won any more supporters; on the contrary, there can be no doubt that the number of the critics of this system has increased in consequence of the world economic crisis. But even if we suppose that the crisis is due to the system, that its causes are in the main economic and not primarily due to political errors, still no one can suggest how to get rid of this capitalistic or rather individualistic system of economy.

There is however much to be said for the view that we in Germany more than elsewhere have developed the specifically capitalist financial organizations to excess, have gone too far in the direction of capitalist concentration, while neglecting

the co-operative forms of organization, the type to which the cartels belong. Generally speaking, it may be said that, apart from the short inflation period when the foundation for the subsequent financial expansion was laid, the cartels, while not decreasing in economic importance, as many had expected would be the case, have for the outside observer been somewhat overshadowed by those huge transactions of capitalist finance which are the origin of Concerns. Business life was dominated by the slogan of 'rationalization,' and in this respect the cartels could achieve little; thus apart from the international cartels little attention was paid to them. My contention of twenty years ago, though it was until very recently dismissed by the most respected economists, is now generally admitted, viz., that the application of technical invention may be too rapid, especially where this consists primarily in the replacement of human labour by machines and demands a more intensive use of capital.

In this connexion there are tasks for the cartels to tackle, which have hitherto been rather overlooked. International cartels in particular have a most important task. The Geneva Economic Conference evidently realized this, since at a time when every one in Germany was abusing the cartels for standing in the way of necessary price-reductions, it was recommending the conclusion of international cartels with a view to restricting competition on world markets — the competition which is now forcing the industries of the various countries to keep on introducing the latest technical improvements without regard for the resulting position of their workers.

Thus it is not to-day a question of 'Cartels *or* Trusts,' 'Cartels *or* Concerns'; the most varied organizations, whether of the financial-capitalist type or of the contractual-co-operative type, all have their own value, and it *is* quite a mistake to look for the germ of the future economic organization in some extreme one-sided development of a single one of these forms.

The Concern Movement In Germany

In the highly developed state of German industry it was only natural that the wave of rationalization originating in America should have called forth such a widespread response in Germany. It was feared — not without reason — that apart from rationalization Germany must lose her competitive power on the world market, and

even in her own home market, to foreign manufacturers (cf. motor-cars, agricultural machinery, and machine tools). It was also recognized that concentration was the best means of providing for the amortization of old capital. Thus the process of concentration, the formation of great amalgamations and concerns, took on very large proportions. These vast financial transactions were a great stimulus to speculation on the stock exchanges, and led to a rise in the price of securities in industries ripe for concentration that was out of all proportion to their real prospects and to the real economic situation in Germany.

This whole movement was accelerated by the all too lavish foreign credits. Apart from them it would have been checked much sooner than it was by the lack of capital resources of our own. No attention was paid to the danger signal, viz. the rate of interest, which, when measured by the market value of the very best mortgage debentures, did not sink, but on the whole kept on rising, in spite of an inflow of more than 20,000,000,000 marks worth of foreign credits in the space of ten years. Not till after the collapse of the whole credit structure did it become apparent how in an ever-increasing degree the foreign credits were merely short-term money, which the foreign capitalists had no intention of turning into shares or bonds. They were simply anxious to profit by the high rate of interest in Germany, and each of them hoped to be able to get back his money in time in case of a German collapse. And they did actually succeed in this to the extent of some 3,000,000,000 marks, but this drain exhausted the German currency reserves — which were subjected to a very severe pressure already — and the ‘stand-still’ agreements were the result.

Whatever, then, the further development of the German credit crisis may be, it remains an indubitable fact that the capitalization of German industry and its demand for credit to effect this capitalization were excessive. It was quite disproportionate both to our lack of capital and our population conditions; these required not more intensive employment of capital, but on the contrary the employment of the greatest possible number of workers. Nor can it be denied that the excessive wage-demands of the workers were partly to blame for this situation, since they were anxious to reduce hours of labour without any reduction in their standard of living — on the contrary, they expected, if possible, to improve it.

To-day, there is a general conviction that the concentration movement has been too

rapid, but it is impossible to undo what has been done. Thus it is unlikely that the big amalgamations and concerns will be dissolved into their component parts, except in the case of a few quite unstable speculative flotations, such as the Lahusen Concern, the Norddeutsche Wollkämmerei, the Katzenellenbogen Concern, the Ostwerke and similar undertakings. On the contrary, amalgamations are still taking place, e.g., that of the Holzverkohlungsindustrie A.G. and the Verein für Chemische Industrie in Mainz with the Deutsche Gold- und Silberscheidanstalt — an amalgamation which for many of its products, such as acetic acid, in effect constitutes a trust. The difficulties of the economic situation are likely to lead to still more financial mergers. On the other hand, very many large enterprises will have to cut their capitalization to suit their very greatly diminished yields. After the change-over to the gold mark the same thing happened; many limited companies, especially such as had absorbed other undertakings in the previous years, found that their nominal capital stood at too high a figure. In the immediate future there will presumably have to be another big writing down of capital; the prospect of this has, generally speaking, already shown itself in the price of the companies' shares. The situation of firms which have taken on too big a load of debt is indeed a much worse one; but this is seldom the case with the big amalgamations and concerns.

In general it would be quite false to suppose that the big enterprises had weathered the crisis worse than the small or medium-sized firms. There have been many more failures among this class of firm than among the big ones. This is generally attributed to alleged neglect of this kind of firm by the banks, who want to reserve their resources for the big concerns. But as we have seen, excessive use of credit without sufficient regard for the rate of interest has been the principal cause of damage; and so we must go deeper and conclude that the small and medium-sized firms, which are mostly in private hands, got behindhand in the race primarily because their capital and the fortunes of their owners had been decimated by the inflation — a fact which people in general and the taxation authorities in particular have not sufficiently realized. Some 53 per cent of the industrial working population still work in small or medium-sized factories and workshops, whereas the giant works employing more than 1,000 workers only account for about 2,000,000, or less than 10 per cent of the working population.

The Reform Of Company Law.

The failures of a few big enterprises and concerns have brought to light serious abuses, and these revelations have very severely shaken public confidence in the joint-stock system, and indeed in capitalist economy generally. The consequence of this has been that it was decided to single out certain particularly urgent points from the long-prepared project of company law reform, and put these into execution by the Emergency Decree of 19th September 1931 — the same decree by which the supervision of the banks was introduced. This measure gave effect to the demand which had long been voiced for greater publicity in the management of the affairs of joint-stock companies. Detailed regulations were issued as to the yearly balance sheets, which were to show all relations with 'subsidiary companies' (i.e., companies in the same concern); further, details of all participations, with the amount of increase or decrease in each case; the company's holdings of its own shares; the amount of 'tied shares,' if any; the cartels and other combines of which the company is a member. There is, however, a clause which concedes that 'facts may be suppressed in so far as the urgent interests of one of the companies or the public interest demands their suppression.' Audit by independent auditors is required, members of the Board of Directors may only be given credit with the express permission of the management board, and debts owed by directors have to be shown separately as such in the balance sheet.

The new regulations with respect to the management board are particularly drastic. All existing provisions of all articles of incorporation in respect of composition, nomination, and payment of the management board are declared null and void. All boards of directors have to be freshly elected, none may contain more than thirty members, and no member may act as director in more than thirty companies (hitherto it had not been unusual for one individual to hold more than fifty directorships, and there had been a case of a single man holding as many as 115). The penalties for directors and managers who act contrary to the company's interests, or who are guilty of fraudulent concealment in their balance sheets, have been greatly increased.

These regulations were supplemented by a further Emergency Decree of 6th October 1931, which facilitates the writing down of a company's capital, and also introduces an obligatory audit by special accountants for public utility undertakings

and for all companies which are in indirect possession of public utilities through the medium of daughter companies.

It is impossible as yet to gauge the effect of these measures, which in themselves constitute merely the partial anticipation of a much more comprehensive project of company law reform. We must bear in mind that it would be a mistake to draw sweeping generalizations from a few cases of flagrant abuse in the management of certain large undertakings and concerns; such cases are certainly of no more frequent occurrence in Germany than in any other country. The unexampled slump in share prices and the lack of public confidence of which they are the expression is due far less to these cases of abuse than to the whole extremely unfavourable and insecure situation in which the German national economy finds itself.

It is quite true that it was the collapse of the biggest German textile concern (Norddeutsche Wollkämmerei) that was the immediate occasion of the German credit crisis breaking out; but if this had not occurred the crisis would undoubtedly have made its appearance before long. The loss of confidence has affected not merely the big enterprises but the entire credit market, the entire supply of long-term credit, whether private or public. In fact the shares of well-managed industrial firms have managed to maintain their price comparatively well.

The Present State Of The German Cartel Movement.

It almost goes without saying that in the present difficult economic situation the impulse of persons engaged in industry or trade to try to improve their position by means of contractual and co-operative associations is not at all likely to have diminished. Thus, speaking generally, there are no signs to be observed of any falling off in the German cartel movement as a whole. Even in an industry which is so depressed and shaken by the effects of the slump as the German cement industry is — where the biggest German concern, the ‘Wicking,’ failed and had to seek refuge in amalgamation with another concern, the ‘Dyckerhoff’ — here too the cartels have managed to maintain themselves. Of course a number of cartels have been dissolved in the depression, but some have been subsequently renewed, e.g. those in jute and margarine industries.

The State too has recognized the need of cartels, and encouraged, even in some

cases compelled, their formation. The most important case in recent times has been that of the sugar industry, in which a compulsory allocation of production similar to that which had obtained some years back in connexion with the former sugar tax was prescribed by the Emergency Decree of 27th March 1931. The total quantity to be produced was fixed at 42,000,000 metric cwt., of which 20.46 per cent were allotted to Silesia, 17.829 per cent, between the southern part of the province of Saxony, Thuringen and Anhalt, and 16.199 per cent to the northern part of the province of Saxony.

Again, the Emergency Decree of 12th June 1931 provided for the compulsory cartellization of the *potato-starch industry*. All producers in this industry are to join either the Sales Bureau for Potato Starch in Berlin, or the Starch Industry Company, founded in October 1930 in Berlin. The regulation of production and marketing is to be carried out by the Interest-Group of the Potato-Starch Industry (G.m.b.H.), Berlin, a company founded in 1928.

It is possible to doubt the value of such measures and to hold that they should not be employed too freely, but they at least show that the cartels to-day are still considered quite indispensable.

State Regulation of The Cartels.

With the Cartel Ordinance of 23rd November 1923 the problem of State regulation of cartels in Germany was by no means laid to rest. From many quarters the demand was made for an extension of the scope of its provisions. Last year the Commission of Inquiry into the Conditions of Production and Marketing in Germany, which has published its findings in some 100 volumes, gave us its final judgement on the question of cartel policy. It recognizes the necessity of the State having a definite cartel policy and exerting a definite control. It further recognizes that the essence of these organizations lies in their monopolistic tendency, and states that it is the task of economic science and of the courts to demonstrate with ever-greater precision the essential nature of monopoly and of preferential position in a market. It rejects the demand for a special Cartel Office or a Cartel Register, considering the powers of the Reich Minister of Economic Affairs to require information to be sufficient.

On the question of cartel law, the Commission holds that it is important to avoid

any undue confusion of private and public law. The right of termination without notice in accordance with §8 of the Cartel Ordinance should be retained, and should be restricted as hitherto to the denunciation of the cartel agreement as such, not be extended to the termination of particular agreements covered by the cartel. The consent to a proposed boycott required by §9 of the Cartel Ordinance should not be given as hitherto by the President of the Cartel Court, but by the executive authorities (i.e. the Ministry of Economic Affairs).

The Commission further recommends the provision of facilities for the revision of judgements given in the court of first instance, for which there is no provision in the original Ordinance. Adopting the proposal of the Jurists' Congress, it would make the High Courts of the different states courts of first instance, the Cartel Court to have the final decision, and this latter to be re-constituted as a special division of the Reich Supreme Court, but sitting in Berlin.

The so-called 'Cartel Emergency Decree' (which is really Chapter Five of the *Ordinance of the President for the Elimination of Economic, Financial, and Social Abuses*, promulgated 26th July 1930) reads: 'Contracts in the meaning of §1 of the Cartel Ordinance are deemed to include such contracts as are concluded between a number of independent firms belonging to the same branch of trade individually with one another, binding them to take specific action in respect of methods of price-fixing or of prices to be demanded.' This means that so-called exclusive trading contracts, loyalty-rebates, protective price-contracts for the sale of branded goods and the like are brought under the terms of the Cartel Ordinance, without however the conception of a 'cartel' being extended to cover all such contracts. Their regulation is and remains a special problem of economic policy, a much wider one than that of dealing with the cartels as such. Such contracts are an indispensable feature of business life, but in times of violent fluctuations of price and production they may involve hardships, which it is the especial, though difficult, function of the judicial system to mitigate.

Cartels and Price Reduction.

In dealing with the problem of price-reduction, the position of the cartels is of fundamental importance, at any rate if we are to judge from the public discussions on the subject. The Reich Government has very properly recognized that the only possible course for Germany to take with a view to reaching a better adjustment of production to quantity of money, i.e., purchasing power, lies not in increasing the quantity of money, and so artificially increasing purchasing power, but in a reduction of prices. This nowadays is generally known as deflation, but the expression is misleading, unless we choose to call the previous state of things — the excessively high price-level due to swollen credits and the tenacious clinging of cartels and trade unions to ‘tied prices’ which did not correspond to the true economic situation — a state of inflation. Hitherto the reduction of prices and wages was always the regular means in times of crisis of adjusting production to demand. The other method, that of artificially increasing the quantity of money, could at best only bring about a temporary improvement, and for Germany, which has already gone through an inflation on the largest possible scale, it would have greater drawbacks and dangers than for any other country. Any attempt at inflation would be immediately followed by a flight from the mark. A third course, that of going off the gold standard, which has been adopted by England and the Scandinavian countries, would bring no advantage to Germany, whose foreign debts were contracted in foreign currency, and it is extremely doubtful whether it will prove even for these countries a way out of the crisis, and not merely the first step towards inflation, towards an adjustment of the internal price-level to correspond to the depreciated international value of their currencies.

Public opinion is inclined to brand the cartels as the principal obstacle in the way of price-reduction — wrongly in my view. This is to over-estimate the number and power of these organizations, which, with quite a few exceptions, is not considerable. The trade unions, and in general the efforts of the workers to maintain their wages, have a more powerful and far more widespread effect. No one can blame them for their attitude, but they have not taken Germany’s general impoverishment sufficiently into account. The fact is that during the years of apparent prosperity between 1925 and 1928, and even in 1929 and 1930, wages were raised excessively,

to some extent through Wage Court decisions and the co-operation of the State, so that to-day the level of industrial wages in Germany remains the highest in Europe.

Nor should the possible effects of State interference with the cartel prices be overestimated, since price-reductions in manufacture and in the extractive industries by no means always reach the final consumer. It is a well-known fact that when the price of corn falls it does not at all follow that the price of bread will fall, and the same is true of groceries and many other products. This may be due to the wholesalers and/or the retailers, and not by any means always to the existence of cartels. Whether any exist is often difficult to ascertain; they are certainly common enough in guild-organized retail trade, even though the statutory guilds are not allowed to countenance price-agreements officially. According to an estimate made by the Institute for Conjecture Research, the demand for consumption goods, 'Germany's household budget,' is valued at 35–36,000,000,000 marks yearly, and of these goods the prices of rather more than 6,000,000,000 marks' worth are 'tied,' or about 17–18 per cent. (According to another estimate, the value of the tied-price goods only comes to 3–4,000,000,000 marks, or some 10 per cent.) And the conception of 'tied prices' is far more general and less definite than that of cartel-prices.

In 1930 the Reich Government decided to launch an offensive against these price-tying agreements. It was decided in January 1931, on the basis of the 'Cartel Emergency Decree' above mentioned, that the fixing of tied prices for the branded goods enumerated in the decree, viz., house and kitchen requisites of every kind, colours, office furniture, ready-made clothes and underwear, yarn and thread of all kinds, medicines and cosmetics, rubber goods, etc., should be legally valid only if the price to the consumer had been reduced as against 1st July 1930 by at least 10 per cent.

It is well known that some of these goods have in fact got cheaper, but of course they only play a small part relatively to the mass-consumption goods. Only recently — September 1931 — was it decided to extend the decree against tied prices to all prices fixed by 'middlemen'; this was particularly aimed at the price-agreements between wholesalers and retailers. In addition, a further reduction of iron prices was resolved on, since prices of foreign iron had in the meanwhile fallen still further.

To judge from the announcements of the German Chancellor, Dr. Brüning, still further measures for the reduction of cartel-prices are in preparation. But there is a general tendency to overestimate the efficacy of the cartels for keeping up prices in times of depression. As I have tried to show in Part II, Chapter XII, they are far more effective in raising prices during a period of rising activity. Apart from a few exceptional cases in specialist industries, State interference for the lowering of cartel prices will not have any considerable results unless it is successful in effecting simultaneous *reductions of wages*. But the difficulties involved in such a simultaneous reduction of prices and wages are very great, and are not simply due to the opposition of the monopolistic associations of the employers and workers, but to unsatisfactory employment and insufficient utilization of plant in industry, in commerce to insufficient turnover and excessive number of firms, which in each case make overhead costs exceptionally heavy. But to go into the many problems involved in the price-reduction movement would be to trespass beyond the limits of this work.

International Cartels and Concerns.

As with the corresponding national organizations, the case of the international cartels differs greatly from that of the international concerns. With the shrinkage of world trade, international cartels have no doubt forfeited some of their importance, and the most important of them, the International Steel Ingot Syndicate, has become almost a dead letter in respect of its most important provision, the control and allocation of production. But it has not been actually dissolved, and it is possible that it may soon be reorganized on a firmer basis. Other cartels in the iron and steel industry, e.g., the cartels for rails, for rolled wire, etc., have survived. A few cartels have been dissolved in other industries, but people are coming to recognize that cartels are indispensable, and thus new agreements are in process of being concluded, e.g. for nitrates and for copper. Other international cartels have been renewed, for instance those in the German, French and Czech porcelain industry. When once the Reparations problem is finally solved, i.e. when Reparations are abolished, and the European economy is once more allowed to function in greater security, international cartels will again become increasingly important.

As a cure for the crisis, international cartels will in my opinion accomplish little. Their main value lies in the opportunity they provide for the manufacturers of the various countries to meet, which makes these more inclined to pay some attention to the requirements of international economic intercourse than the politicians with their fixed ideas ever are.

As to the position of the international concerns in the present difficult economic situation of Germany, there is little of general application that can be said. Even the depreciation of the pound and of the Scandinavian and other currencies have had quite different effects on the different concerns. The danger of the credits they have given being lost will in many cases almost compel foreign concerns to convert these credits into participations in the German firms.

If the present tendency to national exclusiveness persists or even grows more marked, still greater efforts will no doubt be made to form international concerns, since these are a method by which business seeks to protect itself against the damage done by political obstruction. But the erection of productive undertakings and branches in every possible country to manufacture goods which had much better be imported certainly does not make for economic progress or a rational division of labour between nations.

Appendix III: The End of The Swedish Match Concern.

The great Swedish Match Concern which was built up by Ivar Kreuger had all the appearance of a firmly founded international concern. The parent company, Kreuger & Toll, A.B., which had 613,000,000 kroner in capital and reserves, was still able in 1930 to pay out a dividend of 30 per cent; the Swedish Match Company (capital and reserves 713,000,000 kroner) 15 per cent dividend. Quotations for the stock were extraordinarily high and the enormous values of debentures — namely, 321,000,000 kroner issued by Kreuger and Toll, 60,000,000 kroner issued by the Swedish Match Company, and 135,000,000 dollars by the International Match Corporation, stood at a higher level than government securities in the majority of countries. In its annual report relating to the year 1930 the concern issued a diagram of its main participations, which is included in this Appendix. The concern owned 250 match factories in forty-three different countries. In 1930 it paid special attention to mortgage activities, founded in Amsterdam the Compagnie Centrale de Prêts Fonciers with 10,000,000 guilders, in March 1931 the Internationale Bodenkredit Bank in Bale with a capital of 25,000,000 Swiss francs. It had a large holding in the Preussische Zentral Bodenkredit A.G. — the largest German mortgage institute. At the beginning of 1932, knowledge was general that the concern was having some difficulties in creating credit which it had promised especially to Germany and Poland. Ivar Kreuger sought for it in vain in London, New York and Paris. His suicide in Paris in March 1932 disclosed, however, that as long ago as 1926 false balance sheets had been prepared in the main companies of the concern, that Kreuger himself had forged in great volume securities, principally Italian Treasury Bonds, to

act as collateral for credits obtained by himself, that he, having made certain of general confidence, had become a financial swindler of the first water. The ordinary stock and debentures of the concern fell to a very small percentage of their nominal value. The Skandinaviska Kredit Aktiebolaget had to be supported by the Swedish State. The great banking firm of Lee-Higginson and Company, of New York and London, had to go into liquidation. The concern was broken up, but nothing has yet been determined regarding the fate of the individual sections of the concern.

THE KREUGER & TOLL GROUP
 PRINCIPAL SUBSIDIARIES AND INVESTMENTS
 AT 31ST DECEMBER 1930

Aktiebolaget Kreuger & Toll.
 Capitalization :
 Shares Kr. 76 mill
 Part. Deb. " 139 "
 5% Deb. " 182 "
 Res. " 216 "

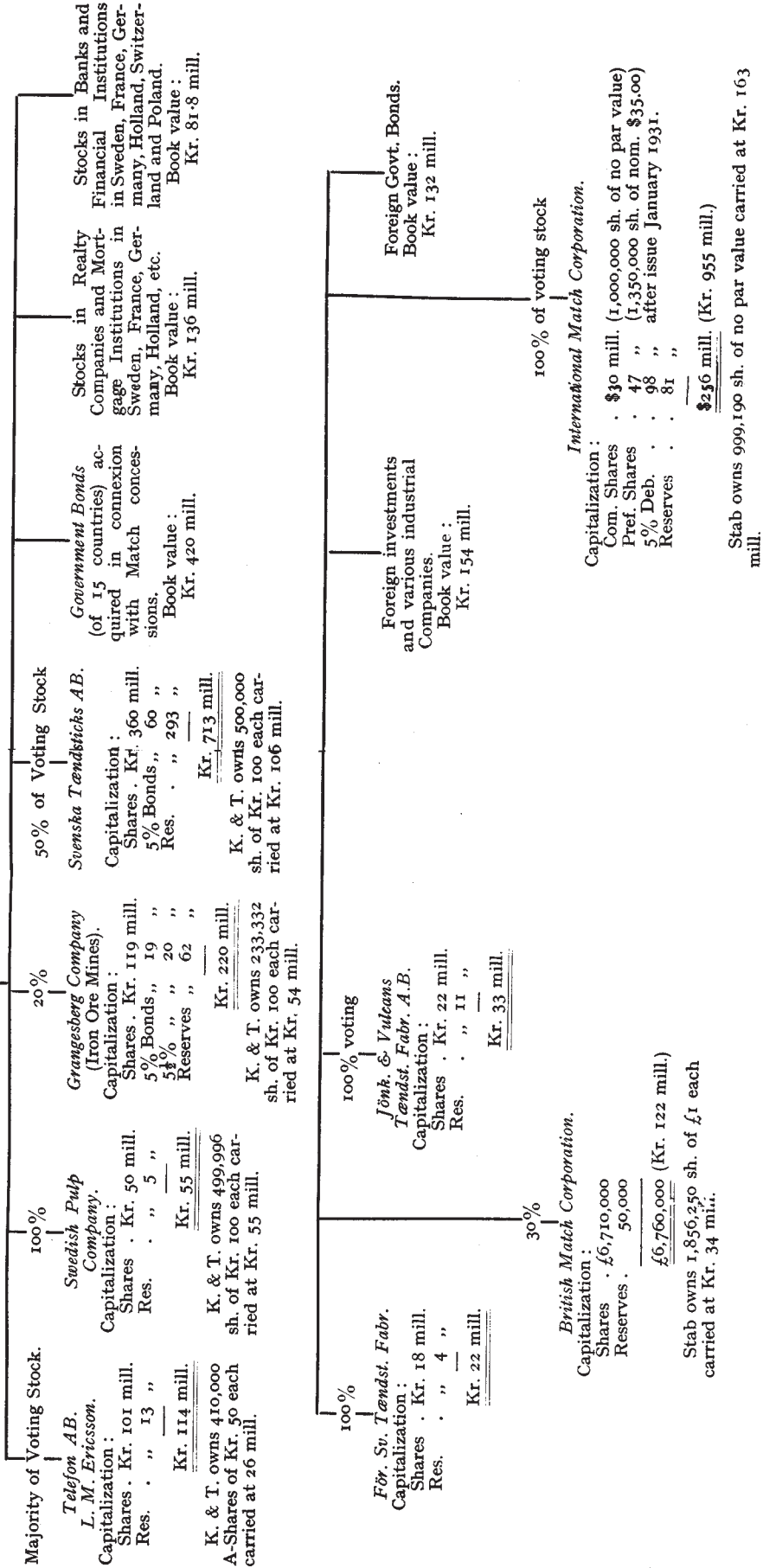
 Kr. 613 mill.

*N. V. Financieele Maatschappij
 Kreuger & Toll*
 (subsidiary holding company)
 Capitalization :
 Shares Fl. 10 mill.
 Reserves " 391 "

 Fl. 401 mill. (Kr. 601 mill.).

Other Industries
 at Shares.
 Book value :
 Kr. 168 mill.

K. & T. owns 9,970 sh. of Fl. 1,000 each
 carried at Kr. 15 mill.



Notes.

1. *Horizontal und Vertikal in Wandel der letzten Jahrzehnte* (Jena, 1927).
2. *Plutology* (1864), ch. 19.
3. *Industrial Combination*, Part I.
4. For discussion of the legal position in England, positive and comparative, see the articles of F. D. Simpson in the *Law Quarterly Review* for November 1924, and of Dr. F. E. Koch in the *University of Pennsylvania Law Review* for April and May 1930.
5. *Principles*, p. 374.
6. The various forms of Corporation and Society are described in my book, *Die Unternehmungsformen* (4th edition), which was brought out by the German publishers of this book as a 'first volume' to it. I have divided up the material on the principle of treating in that work of the forms of the single undertaking, and in this of the different forms of *union* or association which may subsist between undertakings.
7. Vide Part VII.
8. In a book destined as this is for the general public, it is evidently impossible to go deeply into the Theory of Monopolies, as some of my critics seem to expect. They are presumably unaware that I have treated this in considerable detail in my book, *Grundsätze der Volkswirtschaftslehre*, Vol. 2, Part VI, 2nd ed., Stuttgart, 1922. It is clear that in an *economic* treatment of cartels their monopolistic tendencies are of prime importance. But a *legal* regulation of them may not be obliged to take precisely this point of view; and yet there is no recognized juristic notion of a cartel, because 'cartel' is a name given to a particular set of *economic conditions* which may take the most varied legal shapes.
9. Vide *Grundsätze der Volkswirtschaftslehre* and *Allgemeine Volkswirtschaftslehre*.
10. That 'profit-making' is not the same as 'accumulation,' as the Marxians, among them even Werner Sombart (!), teach us, may be mentioned in passing. This expression drawn from socialist terminology is misleading in the highest degree.
11. For the conception of 'producer or entrepreneur' see *Die Unternehmungsformen*.
12. Vide also *Die Unternehmungsformen*, Part III.

13. Vide Part IV, ch. 5.
14. 'Innung' = a modern statutory association of artisans (tr.).
15. Compare J. Strieder, *Studien zur Geschichte kapitalistischer Organisations-formen*, 1914, 2nd ed., 1925.
16. The first public mention of the cartels was in a speech of Eugen Richter's in the Reichstag on 5 May 1879, dealing with the fact that the German rail-makers, and the German truck and locomotive factories, were demanding far lower prices from foreigners than they got within the country.
17. Cf. A. Klotzbach, *Der Roheisenverband*, Düsseldorf, 1926.
18. A 'Pool' is, strictly speaking, a profit-sharing cartel, the profits being paid into and distributed out of a pool. The word was used especially of the North American Railroad cartels, but is now applied to any more or less solidly based cartel.
19. Vide Part III, ch. vi.
20. Cf. M. Metzner, *Kartette und Kartellpolitik*, Berlin, 1926, p. 13.
21. *Kartellorganisation*, 1928, p. 38.
22. The German jurists are accustomed in this case to speak of a 'Double Company' (cf. also the German Socialization Law) because the cartel contract initiates a 'company' in the civil law sense of the word, while the syndicate is a 'company' in the commercial law sense, i.e., a juristic person. This use of the word 'company' for two completely different things is most inconvenient, does not correspond to ordinary everyday usage, and ought to be discontinued. A cartel or an association is not really a company, either for the law or for the economist. [The German 'Gesellschaft' covers both the English conceptions of 'partnership' and 'company.' Tr.]
23. In this book is to be found the detailed discussion of subordinate forms, especially of the syndicates. A similar investigation of the most recent practice is to be found in Tschiersky's *Kartellorganisation*, already cited.
24. *Reform der Industriekartelle*, Berlin, 1921.
25. Cf. H. Isay, *Die Patentgemeinschaft im Dienste des Kartellgedankens*, Mannheim, 1923.
26. I owe this list to Professor R. P. Grau, of Barcelona.
27. I owe this list to Professor Miyata, Nagoya.
28. In the sense of 'working-class' rather than 'middle-class.' Tr.
29. In this connexion vide my brochure, *Wirtschaftstheorie und Wirtschafts-beschreibung*, in the collection *Recht und Staat in Geschichte und Gegenwart*, No. 61, J. C. B. Mohr, Tübingen, 1929.
30. This compensation has since been arranged.
31. *Grundsätze der Volkswirtschaftslehre*, Vol. II, Part 10.
32. H. Bonikowsky, *Der Einfluss der industriellen Kartells auf den Handel in Deutschland*, Jena, 1907, p. 57.
33. Cf. my article, 'Konjunkturforschung und Konjunkturpolitik vom Standpunkt einer individualistisch-dynamischen Wirtschaftstheorie,' *Schriften des Vereins für Socialpolitik*, Vol. 173.
34. The policy of national exclusiveness has gained ground to such an extent during the last few years that the effects of the international cartels have been neutralized.

35. Vide Isay und Nipperdey, *Die Reform des Kartellrechts*, Berlin, 1929.
36. Vide Part IV of the Memorandum of the Imperial Government on Cartels, 1909; Tschierschky, 'Die gegenwärtige Rechtslage der Kartelle und Trusts in *Weltwirtschaftliches Archiv*, Vol. 15, Nos. 1–3; and now, above all, Lammers, *Kartellgesetzgebung des Auslandes*, 1927.
37. Retranslated from the German (Tr.).
38. For the text of this law see *Kartellrundschau*, 1926, No. 4.
39. Both memoranda appeared in an extended form in the work by Drs. Isay and Nipperdey, *Die Reform des Kartellrechts*, Berlin, Heymanns Verlag, 1929.
40. Isay, op. cit., p. 17.
41. Isay, too, at the beginning of his memorandum starts with views drawn from *Sombart* and *Schmalenbach* as to 'decadent capitalism' and 'planned economy.' Cf. my essay, 'Die Zukunftsaussichten des modernen Kapitalismus,' in *Zeitschrift für Betriebswirtschaft*, August 1928.
42. Even a prohibition of child labour, which is always held out as the sole refutation necessary to my position (a foolish example, since I have never asserted that public and private interest coincide in that sense), is not invariably in the public interest; it depends within what limits it is prohibited.
43. *Kartellorganisation*, p. 135.
44. The very fact that countries desire to protect themselves by raising tariffs against cheaper sales by foreign countries is a proof that no one in the foreign country considers such 'waste of our national substance on foreigners' as being of any advantage to them.
45. I cannot here go further into the various views held as to the conception and the forms of the Concern. The most important works, e.g., that of R. Passow, *Betrieb, Konzern und Unternehmung*; F. Haussmann, *Die Tochtergesellschaft und Grundlegung des Rechts der Unternehmungszusammen-schlüsse*, do not differ essentially from the views expressed here and in my earlier works.
46. In the crisis of 1929–31 the Blumenstein Concern broke down, or at least several of the concerned works and the Bank für Textilindustrie got into financial difficulties.
47. In earlier editions of this book I described the structure of these great concerns and the development of their European marketing organization, but I shall now refer the reader to Liefmann und Angelberger, *Die Mineralöl-wirtschaft*, Jedermannsbücherei, Verlag F. Hirt, Leipzig, 1927.
48. Vide the articles 'Treuhänder' and 'Treuhändergesellschaften' in the *Handwörterbuch der Staatswissenschaften*, Vol. VIII, 1926.
49. These are not to be confused with the *Investment Trusts*, which had their origin in England, and which are companies for the investment of capital which buy up a variety of bonds or shares and so distribute the risks of investment for their own shareholders. In their case too the legal form of the trust has now been generally abandoned. Vide E. Kilgus, *Kapitalanlage-gesellschaften* (Investment Trusts), Berlin, 1929.
50. For the Ford Motor Co., which is the biggest individual firm in American industry at the present day, vide Chap. XXXVII.

51. On financial artifices in connexion with the American holding companies, vide Liefraann, *Beteiligungs- und Finanzisierungsgesellschaften*, 4 Auflage, Jena, 1923.
52. In 1927 and 1928 these profits were actually given as 654,851,651 dollars and 582,629,067 dollars respectively; but this is due to confusion with 'surplus,' the accumulated value of capital written off.
53. It is nearly equalled by the Royal Dutch Petroleum Company (capital 600,000,000 guilders), and by the new English 'chemical trust' (vide *infra*), the market value of the English company is however considerably less.
54. In Appendix III the subsequent history of the Swedish Match Trust and its break-up following on the death of Kreuger are described.
55. *Reichsgesetzblatt*, p. 943.
56. *Reichsgesetzblatt*, p. 1046.
57. Article originally published in *Revue Economique Internationale*, Jan. 1932. Here slightly abridged. — Tr.