

EUROPEAN CARTELS  
by  
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One of the authors of "Germany's Master Plan," \*/ Joseph Borkin, is a good friend of mine, with whom I work daily, a man of great merit and one of the chief economic advisors to Thurman Arnold. He had vast stores of material at his disposal. He and <sup>his</sup> co-author are excellent writers. An unfortunate circumstance, however, has made him a victim of the black-white fallacy: he believes in an historical process by secret conspiracies, which last through decades or even centuries. No wonder, then, that he has discovered such a conspiracy to be responsible for this war. In his opinion the German people have lived up to a plan for 20 years (p.1), or since 1914 (p.6), or since the beginning of German history (p.7). The contents of this plan are not described substantially; however, he finds a general denominator for the~~y~~ in the cartel, and its continuing aim has always to do with world domination.

I do not take issue with Borkin's historical philosophy, or with his special application of this philosophy. I do not take issue with many of his allegations, for instance, his statements about Fritz Haber's alleged cooperation with the army in 1908, or the history of the German dyestuff industry, etc. I do not take issue with Borkin's belief that Hitler and his general staff used the monopoly and cartel device in the preparation of the war, because I believe he is right, but I take issue with him in his over-simplification of the European cartel problem. I am compelled to do so for the following reasons:

1. The cartel problem is one of the most important of our time. A wrong conception of the cartel system will have devastating effects on the conclusions we draw therefrom with regard to the future international trade policy of the United States.

2. A mistaken view of the function and aim of European cartels will have

\* J. Borkin. Duell \$2.75

a devastating effect on our peace aims.

The intra-European cartels, which were almost all German-controlled, since the bulk of industrial facilities on the European continent are in Germany, were, in Borkin's view, only a means the Germans used to dominate the whole of Europa. How can he explain the fact that such countries as France, Poland, Denmark, repeatedly advocated cartels as the only solution for European economic problems? The only country which expressed some doubts was England. Were all the representatives of small European countries just fools and dupes of the cartel conspiracy? We read on page 17 of Borkin's book: "The softest impeachment that can be made of them is that they knew not what they did." Did all these statesmen, some of whom were socialists and some leading capitalists, not realize what Borkin realizes, that German-controlled cartels are at all times the servants of German interests and that their loyalty to Germany was undivided?"

We can only hope to explain what underlies such sweeping statements if we first clearly establish what a cartel is. Nothing is more dangerous for any discussion and nothing opens the way more surely to misunderstanding than an uncertainty in the conceptions signified by the terms used. Let us state first what a cartel is not. A licence agreement is not a cartel; it may be a means of securing a cartel. A subsidiary-parent relationship is not a cartel; again, it may be a means of securing a cartel. Any understanding between a number of firms which does not work positively toward eventual regulating of, or otherwise interfering with, the market is not a cartel. A "trust" or "concern" is not a cartel. A cartel is a combination between two or more enterprises to regulate the quantity and quality of goods to be produced, the prices to be paid, the conditions of delivery to be required and the markets to be supplied. The scope of the organization of a cartel is somewhere between the scope of a partnership and the scope of a state agency. A cartel is one of the two basic forms of a monopoly. The other form is a concern or single enterprise able to regulate, or at least to lead, the market. One of the reasons why Borkin came to his mistaken view of the cartel is the inconsistency of his definition, which we find in an anne-

tation to page 12: "A cartel means a combination or agreement ...Most cartels of the modern type are trusts which govern whole fields of technology through patents, know-how, or control of facilities." If conceptions mean anything in political, economic or scientific discussions, a trust is not a cartel. A trust is not a combination, and the statements in the first sentence that the cartel is an "agreement" and in the second sentence that "most cartels are trusts" are inconsistent.

What could have induced European statesmen to salute the idea of European cartels as a road to salvation? Europe is a relatively small continent. Europe is just as much or even more an economic entity as other continents. The Holy Roman Empire gave political form to this economic order. Nationalism tragically destroyed the old traditional order and established 28 sovereign states. All these states were based on the national idea and on the unfortunate philosophy that states must be totalitarian in their potential activities (sovereign). This potential totalitarianism of the modern European state led to the conviction that every state must have its own production in almost every field. It is obvious that such states in their entire conception were destructive of European and of their own moral life. A system of protective tariffs, subsidies, political favors to favored industrialists, and economic favors to favored politicians, became the symbols of European politics.

However, an existing entity cannot be altogether destroyed. The old traditional European order broke through in the most paradoxical way, as long as actual warfare did not make it impossible. Even the most sovereign-minded government could not avoid asking powerful foreign concerns, with large markets protected by patent monopoly, to establish plants to serve the "national" interest of the inviting government as against the country of the invited concern's origin. The invitation extended to foreign concerns was an admission that the economic unity of Europe existed. Independent national producers could survive only by joining the European combination of producers, the cartel, giving themselves a share in the European market or in the overseas market open to Europe.

The intra-European cartel was a substitute for the non-existing political order. No substitute is good, especially not if the price to be paid is as high as it was here. In practice, political governments yielded a good deal of their authority over

foreign and domestic policy to private hands; but the governments of Denmark, Poland, Czechoslovakia and France believed in this substitute as the only way to maintain their sovereignty. Germany's position up to the end of the twenties was relatively so weak that she put her faith in the same "life preserver," which has been used in Germany and all other parts of Europe for the most varying purposes since at least 1880. \*/

The European explosion, which actually occurred in 1933, was to a certain extent a result of the impossible European order arising out of the fact that the "European order" was managed by private interests while the governments of all European countries became increasingly powerless representatives of the proud idea of sovereignty.

Inter-continental cartels are quite different from the intra-European cartels in cause, purpose and organization. We can distinguish between two basic types: the cartel in the field of production and the cartel in the field of raw material. Only in a few cases has one country, or even one continent alone, a world monopoly in the field of finished products, while in the raw material field that happens quite often. Europe has only a few such absolute or even relative raw material monopolies. One of them was mercury. Latin America, partly in itself, partly in company with the United States and parts of the British and Dutch empires, has many such absolute or relative raw material monopolies: e.g., copper, tin, tungsten, molybdenum and nickel. Russia and Canada control 75 % of the world's platinum, while South Africa and Columbia control the rest. In almost all these cases Europe was subject to combinations of the "few" in control. Almost all of them used the cartel device to avoid over-production, thus keeping prices at a relatively high level in the middle of a terrible depression which forced all other prices down. The effect on the purchaser countries has been terrific.

In the field of production Europe, and especially Germany, was much more often

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\*/ Compare my article in the June and October, 1942, issues of CHICAGO LAW REVIEW.

the organizer of manufacturing cartels and other forms of monopoly, yet in many cases she was subject to cartels organized elsewhere. Readers of Borkin's book will find ten chapters on the chemical industry, seven chapters of general discussion and only one single case (the optical industry) in which the control of an entire industry is at issue, while in the other cases only certain articles are affected. The simple reason is that the chemical industry supplies the most instances in which Germany was the commander of the inter-continental cartels. The electrical cartels are very much under American influence, i.e., in the fields of radio, records, lamps and telephones. The automobile industry, the lock and key industry, the office machine and shoe machine industries as well as the agricultural machinery industry, are all American monopolies based on patents and trademarks and all the other devices used by cartels.

As soon as one country or a group of countries realizes that they are the only producers of certain material, they band together to find out how they can regulate the market, effective ways to exploit other countries, and their own countries. For this purpose they divide markets, they restrict production, they establish pools in which products are stored until they can be sold at higher prices, etc.

Each country is inclined to speak only of the cases in which it is a victim of the agreements of others, and not a partner thereto. Every country tries to shake itself free from being a victim of, or subject to, such understandings; therefore countries with a strong manufacturing industry try to find artificial substitutes for the raw materials of which they are deprived by the "understanding." Countries in control of certain raw materials try to find ways of substituting them for manufactured products. High tariffs prohibit the import of such competitive goods as soon as the manufacturing or substituting process is a success. The raw material producers find it to their interest to raise the price of the raw material in the whole world to such an extent that the artificial producer finds an opportunity in the market also. That was what happened in a great number of relationships between Germany and American industries before 1933.

The development of the inter-continental cartels finally became a political fact of tremendous importance. While intra-European cartels were mostly brought into being by political facts, inter-continental cartels established political facts. They determine the sphere of influence each country has. They divide Latin America and other parts of the world between themselves. The necessary effect is that political governments are called upon to consider certain parts of the world as "fields of their interest" and certain other parts as territories outside of their sphere. Governments become subservient to private decisions all over the world. Every time one of these cartels broke down, a warlike situation arose between private monopoly groups, in which the governments immediately found themselves involved.

Since natural law is no longer considered the rule of our lives, the only principle which exists is that victory goes to the strong. Which among existing factors of strength actually is the cause or effect of this development often remains a matter of doubt. Certainly the development of the international cartels indicated here is one of the causes of the world catastrophe. More we cannot say.

The greater the number of independent people who influence economic life, the more difficult it is for a dictator to get control of a nation. The greater the number of independent people who participate in the economic world contest, the more difficult it is for a dictator of one nation to organize his territory for total war. The greater the number of independent people who live in every country, the more difficult it is for a nation to swallow up other nations, even after they are militarily conquered. As soon as Hitler came into power and his general staff began to prepare for war, the cartels and other forms of monopoly in the market became an excellent basis for an economy devoted to rearmament. Influence in intra-European and inter-continental cartels became an excellent means of collecting information, controlling the actual production of other nations and preparing for the overthrow of their governments and for military conquest. Other partners in these cartels were often not too unhappy, since the rearmament of Germany increased production and raised prices. For

instance, in the steel industry the Belgians and French were very anxious to remain in the cartel after German rearmament began, so as to participate in the profits. The policy of making agreements between the German producers of artificial products and the people in control of the equivalent raw material became a special type of cartel policy. In these cases the hope of the producers of the raw material was to get more for their goods in their own countries, or in the countries outside the influence of the artificial producer. They knew the significance of the artificial products for rearmament, but they expected that this rearmament would not be used against them but against other people - if indeed, they gave thought to anything other than to business.

Cartels are not limited to one single country nor to one single political system. Senator LaFollette expressed himself as follows: "I am very anxious that the reader of this record shall not get the impression that the horrendous , horrific aspects of this thing are due alone to Hitler. It is inherent in the monopoly disease. That is my point. Of course, I do not want to be misunderstood. Anybody who gets power will utilize whatever devices are at hand, but the point is that these world-wide monopolies grow up under democratic control in all countries."

Cartels are the modern form of world business. They have an immense influence on the fate of every human being, whether he be in the United States, in China, or in Europe. We have not yet found the means to control cartels or other forms of monopoly. Certainly we have not found a system to get rid of them.

I am certain that Borkin will not disagree with me in my final conclusions and that he will give all his thought to a constructive solution of the problem. It is high time to come to an end of the negative discussion. We see the end of Hitler's terror coming nearer every day. So here is our chance to make a new start in dealing with the monopoly problem. The world is aware of the danger. The highest spiritual leaders of the nations discuss it explicitly. The Archbishop of Canterbury recently called it one of the crucial problems of the world. In his Christmas message Pope

Pius XII told us the following:

That social life as God willed it, may attain its scope **it** needs a juridical order to support it from without, to defend and protect it; the function of this juridical order is not to dominate but to serve, to help the development and increase the society's vitality in the rich multiplicity of its ends, leading all the individual energies to their perfection in peaceful competition and defending them with appropriate and honest means against all that may militate against their full evolution.

The Pope has given us his warning with regard to the problem of the "control" of the monopoly by the statement:

Whether this slavery arises from the exploitation of private capital or from the power of the State, the result is the same. Indeed, under the pressure of a State which dominates all the controls of the whole fields of public and private life, even going into the realm of ideas and beliefs and of conscience, this lack of liberty can have the more serious consequences, as experience ~~sh~~ shows and proves.

The minds of the best men are necessary to help us steer between Scylla and Charybdis. We know that the essential condition of finding our way is to subordinate ourselves to the principles of the natural law. Then we may find means to compel our neighbor to do likewise. We cannot hope to find salvation so long as we try to destroy evil only in the society of our enemy.