

The Devil's Chemists

24 CONSPIRATORS
OF THE INTERNATIONAL FARBEN CARTEL
WHO MANUFACTURE WARS

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in collaboration with Edward Johnson



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I COULD NOT HAVE FACED THE EXPERIENCES RE-
COUNTED IN THIS BOOK WITHOUT THE NEVER-FAILING
SUPPORT AND INSPIRATION OF MY WIFE.

J. E. D.

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Preface

TO UNDERSTAND THE FULL SIGNIFICANCE of this story, bear in mind that today the main characters — defendants in the most far-reaching criminal trial in history — are all alive and free to work against the way of life you and I cherish.

Today a great struggle is being waged for the political allegiance of men. The United States of America has been steadily losing in that struggle since the end of World War II. In seven years the free world has lost to Communism half of Europe and large areas of Asia. This amounts to the loss of over eight hundred million people who once regarded themselves as our friends and allies.

The foreign policy of the United States demonstrates that most of our leaders understand little of what has happened in Europe and Asia during the last generation. We have challenged disillusioned hearts with only a hodgepodge of defensive tactics. It is my belief that we lost the support of most of these people because we appealed to them almost entirely through our own fears, with little regard for their real hopes, dreams, and needs. To replace Communist bread, often we have spread our own table reluctantly and too late. Often we have countered the vicious Communist evangelism only by negative argument. Most important, we have poured salt on the ugly wounds which certain hated industrialists have cut into four continents.

For ten years the average European and Asian has understood my story better than our leaders yet understand it. I believe also that the average American, should he read this book, will have a better understanding than his government of how Europeans and Asians feel about the facts. To those who sickened in the 1930's at the news that American scrap iron was being sold to Japan; to those who later observed with disgust the failure of the League of Nations to put teeth into its economic "sanctions" against Italy when she invaded Abyssinia; to those who recently cried shame on the shipment of British war-potential goods through Hong Kong to the Chinese Red Army; to those who are flatly opposed to doing strategic business with any totalitarian institution, whether

by direct sales or outright political subsidy — to all those, this book is recommended.

The full story of all the industrial groups that have deliberately bred war, or have deliberately shut their eyes to the breeding of war, could not be contained in ten books. I have limited my story to the single group of men whose vast influence epitomizes all the others — a group that is still many years ahead of all others in the techniques of waging, in "peacetime," a future war.

Unbelievable as it seems, the defendants in that trial are back in power in Germany today. Their Oriental collaborators are back in power in Asia. We have been so afraid of Communism that we have been willing to resort to almost any expedient in our hysterical effort to stem the tide. Fearful reaction has lost us all those who looked to democracy for an inspired and positive program. The wisdom of helping such men form a vital bulwark of defense against Communism will be seriously questioned, I am sure, by almost every reader. To rely upon the generals-in-gray-suits who shared the responsibility for World War II, to ally ourselves with groups which have been allied with Russia more than once before, suggests the probability that if World War III breaks out, they will be fighting for Soviet Russia, not for the West. And in treating such groups as friends, we are losing true friends all over the world.

The crucial question to ask after reading this book is: What will happen if these men and the forces they represent align themselves with Communist aggression rather than with the freedom-loving peoples of the world?

In condensing 150 large volumes of testimony within one average-size book, a great deal of material has necessarily been eliminated. Nevertheless, I believe that every significant aspect of this historic criminal trial has been brought to the attention of the reader. If material has been taken out of context, it has been done in such a way as not to distort its basic meaning.

As a guide to the reader, we have included in the appendix an organization chart of the industrial concern known as I. G. Farben and a list of the twenty-four defendants in the trial, together with the positions they held.

J. E. D.

THE DEVIL'S CHEMISTS

PART ONE

TOTALITARIAN INDUSTRY—
THREAT TO WORLD PEACE?

1. Easter Hats and Wild Horses

THIS IS THE STORY of twenty-four geniuses who changed the face of the earth. The most brilliant men in Europe, they headed the industry known to the newspaper reader as "I. G. Farben."

I. G. Farben first subdued nature in ten thousand ways, then shipped the marvelous products of that victory across the seven seas. Its business has touched the life of every man and woman in the world. Often an unrecognized guest, it has visited every American home, with dyes, plastics, fabrics. If Farben did not make your bathroom fixtures, your shaving mug, or even your razor, your wife surely owes much of her prettification — from Easter hat to synthetic stockings — to I. G. Farben.

Long before the age of plastics and nylons, I. G. Farbenindustrie was known to many Americans as simply the world's best druggist. Every reputable pharmacy, every physician's bag, every good family medicine cabinet, stocks some of Farben's 6000 medicines. The firm invented a drug that is still the best cure for epilepsy. They made atabrine, the quinine-substitute for treating malaria. And from the aspirin tablet alone, I. G. Farben made a vast fortune.

But the founders were not concerned merely with balance sheets. They drew their inspiration from the gurgling of water, the perfume of damp earth, and every vegetable and mineral in the earth. Could health, personal beauty — yes, even universal brotherhood — be created by two dozen men of dynamic chemical genius? They believed it could. By 1925, they had nursed food from arid lands, made fats and fuels from coal and water, and were dreaming of making copper out of clay.

A few years later, their talents crowned a combine that overshadowed even the giant United States corporations. From the sun

— a competitor in nurturing such things as cotton — they had learned many economies of mass production. Now the sun shone with subservient benevolence on a fabulous industrial empire, from the Rhineland to the Hudson Valley to the muddy Yangtze River. I. G. Farben's holding companies and plants then blanketed Europe, its house banks and research firms and patent firms clustered around every important commercial center in both hemispheres.

This success did not curb their seemingly strange vision. The Farben "president" transferred millions of dollars into other hands on faith alone. On faith he transferred the legal ownership of a \$100,000,000 U. S. combine to a friend in Switzerland.

This combine was the old American I. G. Chemical Corporation. From 230 Park Avenue, New York City, its main office governed five subsidiaries, all producing marvels of modern chemistry. They were the Ozalid Corporation of Johnson City, the General Dyestuffs Company, the old Hudson River Color Works, the Agfa-Ansco factory which manufactured cameras and films, and a research plant in Pennsylvania.

Dyes were the basis of American I. G. Chemical's entire business, just as dyes were the financial and scientific wellspring of all the Farben companies. Yet in a brief memo Farben's president let the American I. G. go. This poetic magnanimity — unless it concealed a desperate gamble of some kind — was more typical of an artist-scientist than of a financial wizard. One might not have been surprised at a show of generosity from, say, the Farben director who founded the photo-chemistry whose cameras were sold around the world under the Agfa-Ansco trademark. He had helped to develop color photography, too. At the trial, he testified:

"I did not like to see beauty just in a dark room somewhere. I wanted to see my child, or some fish or game I had caught, in color — to see it in all its beauty. And we succeeded."

So, even at their trial, these men did not think as robber barons are supposed to think. Exclaimed another of the directors on the witness stand:

Chemistry is a dynamic science. Thank goodness, every people is inventive. The effects of everyday life are noticed in everything we use — fibers, everything that is dyed, plastic articles, and parts of automobiles and radios. It was the climax of my life when Dr. ter Meer sent me to the forests of Ceylon and the Malay States, to study how nature produces rubber. These studies were so enlightening that Dr. ter Meer entrusted me with the on-the-spot management of synthetic rubber development. We were dealing with the unknown. . . .

That was Dr. Otto Ambros — a member of I. G. Farben's *Vorstand*, or board of directors — speaking. To his mentor, Dr. Friedrich ter Meer, all the natural substances like rubber were "wild horses that must be broken to the reins." But mankind was no wild horse to him, if Dr. ter Meer's witnesses were telling the truth. During the first World War, Dr. ter Meer had owned a dyestuffs plant near the French border, and French prisoners of war who still recalled working there called him "Director Bon." Ambros apparently was a good man, too; younger than Ter Meer, he enjoyed similar respect from many French workers during the second World War. For two years after the war ended, he worked for the French government; several times they refused to give him up.

"The first stages of the collapse promised everything but that I would be arrested," Ambros told the court with a smile. It was the same smile that had greeted the vanguard of American soldiers that rolled into Gendorf, Bavaria, in 1945.

They noticed him immediately. Even when he stopped smiling, his lips munched pleasantly under a prematurely gray moustache. The other townsfolk protested innocence in various degrees of cunning and sophistication, while Ambros seemed to lend his Bavarian folksiness without obligation. He sniffed the air deeply. He was like a rabbit who had come out of the near-by hills, standing alertly on its hind legs, watching with devilish friendliness these taller beings straggling warily around the town.

The G.I.'s liked him, but the commanding officer wanted to know why he was wearing a fancy suit among the jerkined. What were his rank and serial number?

His name, the man said, was Ambros, and he had no rank or serial number. He was a "plain chemist." Although he was a German, he had many French friends; in fact, he had lived at Ludwigshafen, only forty kilometers from the French border, which made him very nearly a Frenchman.

The commanding officer was suspicious. A few days later an advance detail of General Patton's army arrived in Gendorf. The two C.O.'s, after putting their heads together, ordered the "plain chemist" held for questioning. If he was almost a Frenchman, what was he doing here, way over on the other side of Germany? Ambros answered that he'd had "no reason to flee" and every reason to be in Gendorf. As a director of I. G. Farbenindustrie, he had been in charge of a synthetics factory here.

They inspected the factory, peeking into vats of soaps and

detergents. Lining the walls of Ambros' office were spectrum cards exhibiting the many-colored lacquers also made there.

Every day troops arrived who had not washed for a month. Some of their vehicles were faded and dirty. Not only was this fellow a welcome quartermaster, but working for him were the best of all character witnesses — refugees from the concentration camps across the Polish border. He had brought them here, and while they didn't talk much, they worked hard for him and said nothing to refute his claim that he had picked them all and trained them so that, when they returned home, they would have skilled professions.

Ambros stayed in Gendorf for a few more months. Higher commanders rolled into town and had him picked up to answer more significant questions. The factory was underground. He pointed out that most of the underground factories in Germany had been bombed; surely the Allied air forces would have bombed this one if it had had any strategic value! He referred to his activity here as dedicated to "once more preparing for the coming peacetime industry."

He passed soap out to the soldiers personally — it was good to have somebody dropping gifts in *their* hands for a change. The brass felt the same way when he issued cleaning agents and paints for the vehicles. They were not scientists, but any scientist worth his salt could talk about technical things simply and with a smile. This fellow Ambros could tell you how to make a hundred wonders from one chemical element: ethylene oxide.

He knew more about rubber than anything else. A synthetic-rubber factory had much in common with him: civilized, neat, more reminiscent of perfected nature than of Man. A rubber plant had to be absolutely clean; a speck of dust mingling with the liquid rubber could mean a blowout on the highway some day. To plan a rubber factory, you did not begin with *materials*; you put your finger to the wind, because the wind had to blow in the right direction to take off the carbide dust so that it "would not be thrown in your neighbor's face."

The judges of the court listened as the soldiers had, as if waiting for a twig to crackle. Somehow the fortunes of war had placed this picture of a spotless industrial installation in a horrible setting, beside a river (not the calm Hudson or the turbulent Rhine) that ran red with a dye no chemist could synthesize. There sprawled the buna-rubber plant, and three kilometers away was a concentra-

tion camp. Surely this good-natured, earthy chemist had nothing to do with that! One of Farben's top employees, assistant to both Dr. ter Meer and Dr. Ambros, was testifying:

In my compartment there was a man, a working man, and he told with loud voice to the other men and wives in the compartment that in Auschwitz concentration camp people — people were burned in a crematorium (he said not the word "crematorium") and in large numbers. And then the whole air in Auschwitz was filled with the smell of death. I was very deeply impressed and I sprang up and said he should not say such lies.

The prosecutor pressed the witness for more details:

Q. And the smell of burning flesh was known at the buna plant — you understood him to say that? All right, go ahead, what did you do when you heard that?

A. I sprang up and said, "They are lies," and he said, "No, they are not lies; there are 10,000 men or more at Auschwitz and all of them know it."

Q. You say, then, that in the beginning of 1942 you heard of Auschwitz concentration camp, about the burnings and cruelties going on there, and you learned that from an open discussion on the train ride?

A. Yes, he said it to all present. There were 10 or 15 in the compartment, and they all heard it.

Q. Were you convinced when the workman said, "No, they are not lies?"

A. No, I was not convinced. . . .

Q. In the summer of 1943 you visited Auschwitz again. Did it occur to you that you should investigate it then?

A. I asked in Auschwitz a responsible man, the chief engineer Heidebroek.

Q. What did you ask him?

A. He said it was true. I can give you from Frankfurt the exact date.

Q. You reported to the chief engineer what the workman said on the train, and the chief engineer said what the workman had said was true?

A. Yes. . . . I think he also told me that the people were gassed before they were burned.

Q. Then in the summer of 1943 you knew that people were being burned and gassed?

A. Yes.

Q. Is this your statement, Dr. Struss: "After I spoke to Heidebroek I was convinced that the situation at the Auschwitz concentration camp was as bad as they had told me, but I was hoping that it was not true"? Is that a fair statement?

A. Yes, that is a fair statement. I had only 1 per cent of hope that it was not true.

A few months before this witness, Dr. Struss, told his story, one of the judges of the court had summed up his reaction to I. G. Farbenindustrie: "This is simply a big business concern the like of which there are many throughout the world." The judge had not yet heard of Struss's conversation on the train, nor had he heard the many witnesses for the prosecution who had worked at Farben's buna plant in Poland. But he had been hearing for weeks about a web of interests more influential than any ever spun by Vanderbilt, Rockefeller, or Fisk — about acts of aggression and conquest on a scale difficult to comprehend. No, there was only one I. G. Farbenindustrie. But if a judge who tried the facts firsthand could not believe his ears, what might one expect of other intelligent men?

My understanding of Farben has developed in the last ten years, during which seven government missions abroad have carried me through fifty countries. Farben first came forcibly to my attention on a mission to Latin America in 1941. I met Farben in North Africa in 1943, in France in 1944, and in Europe and Asia from 1945 through 1948. During the war a report had crossed my desk in Washington from a town in Poland called Auschwitz. The men who wrote the report had spent two years in Auschwitz before their escape. At three o'clock every morning, they were herded with hundreds of others to a tremendous plant, several kilometers square, called "Buna." At noon they sucked up a little turnip soup. The evening meal — "evening" was eleven o'clock at night — was a crust of bread. When I read this report in 1944, I speculated as to whether this "Buna" plant in Poland was a Farben venture. I too found it hard to believe.

2. *Anything Intact Was Beautiful*

DECEMBER 1946 — a long time ago reckoned by the hours of national futility that have since gone by.

December 1946 — there was a lot of war going on. The Jewish underground in Palestine was attacking Tel Aviv; in Iran the leftists fought the government with sticks and stones and leaflets and broken-down tanks salvaged from larger armies. But the Cold War hadn't yet been named. Although threats between nations were commonplace, Andrei Vishinsky, speaking a few days before at

Madison Square Garden, had said that the "capitalist" and "socialist" systems could get along together. And Molotov announced that Russia would not veto any United Nations provisions for international inspection of arms.

As the air cleared for one false moment, the average citizen, long tossed on a sea of suspicion, looked about for a tiny raft of faith. I was looking, too, I suppose. One day early in that month, I was standing at my office window in Camden, New Jersey, when the phone rang. Ordinarily, to me the weather is little more than a guide for what to wear; yet let that afternoon come back — as it often does — and I see too clearly the lines of roofs and doorways through a fog scowling down to the gutters. I have to think twice to realize that even the later consequences weren't foreshadowed by two consecutive moments at the window. Although the phone call was the most far-reaching of my life, I don't recall it very well.

I answered it, of course. Then I was back at the window sensing the ethereal exaggeration of roofs and doorways, walls whole and larger than they really are. It wasn't quite time for the shops to be decorated in evergreen and neon, the Walt Whitman Hotel to be girdled by colored lights. Still, I saw the coming season in squat buildings and dirty streets. For a long time, I had spent most of my holidays in a crumbling scene, and I had come to a time when anything intact was beautiful.

My secretary came in to announce that the client in the outer office was impatient. Whatever the matter was — a will to prepare, a divorce, a deed — I handled it before going into the adjoining office to face my brother Herb. He looked up from his desk. Behind tortoise-shell glasses he blinked slowly as he always does to hide his incessant curiosity.

"Washington just called," I said. "The government wants me to come back."

His face was still tanned from Army life — he'd been discharged a few months before. But his tan did not hide the deeper color of anger.

"I thought you were fed up. You just got home a couple of months ago."

"Now, don't get excited," I said. "I told them I wouldn't come."

He settled back in his chair. "Good! What was the proposition? Did they want you to draw up the papers to lease Alaska to the Russians?"

"Germany," I said. "This mission would not be like any of the others." Then I gave a brief, maybe even vague, report of the conversation. What difference did it make? "I told them I'm not going anywhere but right here in Camden. But I'm going to Washington on that tax case anyway, and I can stop in at the War Department and talk it over."

"Here we go! All the government has to do is phone you, and you jump. You've left us four times, every time before we get established here. Haven't you had enough?"

Yes, I thought, I've had enough. But, leaving my office early, I drove slowly. And at the traffic circle outside Camden, I missed the turn to Westmont, where I lived, and found myself on another highway, driving past other intact buildings, trying to feel that I belonged to their sturdy perspective, trying to pretend, a year and a half since the war ended, that I had danced in the streets on V-E and V-J Days.

It was dark when I drove up to my house. My wife was in the doorway, and before I stepped in, I said: "The War Department wants me to go to Nurnberg. The Farben industrialists may be put on trial. They want me to head up the prosecution. I'm not going, of course."

"I'll get supper," she said.

Both the kids were in bed, and we ate supper alone. Over coffee, she asked some questions. How many Farben men were being held by the Military Government? About ten, I guessed. And what were they going to be tried for? Well, no indictment had been issued yet.

"They've been loosely accused of deliberately helping to bring on the war, you know," I added. "But I'm sick of it, and I told Herb so."

"If you really don't want to go, that's fine."

She watched me intently. "Farben again," she said. Her coffee cup clattered nervously in the saucer.

"Yes, it seems to follow us everywhere."

To explain why a huge organization far removed from our supper table had a special meaning to my wife, too, would take volumes. Farben had a most artless full name, "Interessen Gemeinschaft Farbenindustrie Aktiengesellschaft," which means "Community of Interests of the Dyestuffs Industry, Incorporated." In more pleasant days, when my wife first heard the name, she had commented that it sounded like a cross between a service club

and Easter eggs. During one war year, Farben had employed more people than three of the world's largest corporations put together: DuPont de Nemours of Wilmington, Delaware, Standard Oil Company (New Jersey), and Imperial Chemical Industries of London. Holding companies, coke ovens, lignite-coal mines: what woman would care that these were part of the Farben empire? Yet Farben to her meant all of Farben, a thing that had become in our house like the name of a former spouse.

"It follows us everywhere, Joe, doesn't it?"

It, she had said, not "Farben." "Farben" was four years of old-fashioned convictions that had led to failure. Even to many people who saw some of the facts as we saw them, Farben was only "the German question." To us, as to only a few others, it was a world question. Though Farben had been the industrial czar of Germany for half a century, its empire included more than 880 firms throughout Europe, Africa, North and South America, east and west Asia. I had good reason to know that Farben was the Machiavellian planner for all institutions in the world that had allied themselves with military aggression.

Quietly we finished our second cup of coffee. Then I went down to the basement. Near the furnace were the four packing boxes and one trunkful of papers I had gathered during my service with the Treasury Department and on three Presidential missions. I shouted up to her: "What happened to all that stuff I had on Farben?"

"What are you doing?"

"I'd be able to find things if you didn't move stuff all around down here. It won't be funny if those boxes catch fire."

"I'll come down now and help you move them."

"Never mind, never mind."

"I thought you didn't want to take the job."

"I don't! You and Herb! I was just curious."

She came down for a minute to remind me that I had planned to seal up those boxes and lock the trunk. I myself had put all the stuff near the furnace. Now, she pointed out, I wanted to move it away.

"Stop being psychological," I said. "What's so important about that?"

She was right, of course. Whether or not I wanted those records to burn, I wanted to forget. And how would one seal up a viewpoint that had been slowly burning away anyhow? The last page — that would be the previous May. Seven months before, Edwin

Pauley had just left on a round-the-world mission to find out for the President how effectively the U.S. reparations program was being carried out. On our previous missions to Europe and the Far East, we had recommended programs whereby the vanquished economies were to be helped to their feet with equipment and assets which the aggressors had used to foment the war, and with the spoils they had taken from the conquered countries. Pauley had asked me to go along as legal advisor, as I had been on the first two missions.

But that May had ended seven and a half years of my service in the government, and that May the program in Europe and Asia was being "carried out" — on a stretcher. My brother and I had a talk then, too, and I had declined. But again Pauley wired me from Tokyo. In July I joined the mission.

Besides dealing with "reparations" in the limited sense, this last mission, like the previous ones, had gleaned a thousand-and-one impressions of how Uncle Sam, with new international responsibilities he couldn't escape, was getting along in the battle to win the peoples of the world to our side. Asia had emerged from the last war in revolution. Dangerously aimless, this revolution was a chaotic ground swell rolling up against centuries of hunger and oppression. Its momentum lay not in leaders whose principles might be negotiated, but in millions and millions of aroused people.

Yet by the craziest political paradox in American history, our political mind had tended, since 1945, to attribute all unrest in Asia to the Communists, and all understanding in this country of that unrest to starry-eyed sympathizers with Communism. The most frightful danger to us was that we would go on treating the Communist role, which was already playing the part where it could, as the revolution itself. Abroad, the descendants of 1776 shunned the very word "revolution" while the Communists shouted it. The Communists had by this time gained the initiative so far that, while appealing to the Asiatics in terms of "people" and "democracy," they had succeeded in making even these words suspect in many an American mind.

What did the Asiatics really want? They wanted economic reform, including land reform. They wanted national independence, and this desire had led to Asiatic nationalism. "Asia for the Asiatics" was the rallying cry. The Communists had appealed to these irrepressibly popular urges for years, and with some success. But 1945 had still not been too late for us to take moderate action.

The Pauley missions hadn't gone to Asia to support a revolution, as the French had supported the American colonies in 1776. We went to play a few hands in a game the United States would surely lose if it didn't sit in as more than a tactless kibitzer. Our mission was mainly economic, for the dangerous resentments in Asia, going hand-in-hand with the demands for new freedoms, were economic resentments.

We submitted our program to President Truman in 1945. It had advised that the excessive industrial capacity built up in Japan for conquest should be distributed as quickly as possible to other countries in the Far East, particularly China, Korea, Indo-China, and the Philippines. Ambassador Pauley had warned that unless China particularly was strengthened economically, it might well fall to the Communists. He had warned of the same danger in many European countries. Japan was not to be reduced to a non-industrial society, but the key war industries were to be taken from the hands of the industrialists who had gained their strangle hold on the other Far Eastern countries by aggression and aggression alone, and placed in the hands of peaceloving businessmen in Japan and the other countries.

But now the Zaibatsu cartel — whose ill-gotten gains in the other countries had come from fraud, swindling, and full support of the Japanese war machine — was still openly supported by American policy in Asia. Zaibatsu, the Oriental face of I.G. Farben. The partner that had sat at Farben's feet. The Communists were still exploiting the people's resentment on this score, extending it to innocent Japanese businesses and interpreting American support of the Zaibatsu as an outright American desire to bring war again to Asia, as the Japanese had.

At the top of the trunk, gathering dust, lay the Pauley recommendations on the Far East. I dug deeper. My wife was calling: "You may be thinking of me. I would hate to get into this Farben mess again. But if you *are* thinking of me, I just wonder, too: Who would do the job if you didn't?"

She was in the living room. I went in, my arms loaded with Farben papers. You couldn't help thinking back once in a while, I remarked.

She agreed at first. It was too late to go back. Six missions — to Paris, Moscow, Potsdam, Tokyo, Algiers, London. Eight wasted years. For the past four of those years, the United States, acting on the fairly reasonable assumption that Communism and capital-

ism must soon fight, had handed the Communists their best weapon by stupidly failing to dissociate itself from institutions that had allied themselves with naked aggression.

"What good does it do to go on one mission after another that leads nowhere?" I asked. "Farben has won again, that's all."

She said: "If Farben represents the whole problem, wouldn't a trial get the facts to people better than anything has in the past?"

"Does that mean you want me to go?"

"You won't go anyway if you don't want to. I think you should do what you want. Why don't you write to Ed Pauley?"

I wondered what Pauley would say. "It's bad poker," he had once remarked to me in Tokyo, "to assume that all these Communists in Europe and Asia are being made by Joe Stalin or Karl Marx." But Pauley thought my interest in Farben was unusually intense; often he had referred to me as "I.G. Joe." I wondered whether he, as a businessman, might not shy away from the idea of criminally prosecuting foreign businessmen with close connections in this country.

"All right," I said. "I'll write to Pauley and ask what he thinks."

3. Before Armies March

A FEW DAYS BEFORE THAT CHRISTMAS of 1946, I caught the Washingtonian out of Philadelphia. That was the week the United States called on the United Nations to urge the Spanish people to get rid of Franco, and a Senate committee had gone down to Jackson, Mississippi, to look into the campaign practices of Senator Bilbo. Some time during that week I must have wondered wearily why the State Department had abetted Franco to power in the first place, and why the upper chamber had ever seated the Senator from Mississippi. Throwing the New York *Times* onto the rack above my seat, I zipped open my briefcase and pulled out my file on the tax matter.

No use trying to concentrate! Frost bit the window, designing it into two uneven panes. Winter in Washington was usually a comfortable prospect, after the miserably humid summers; but this time I would feel alone even if comfortable. The man who had introduced me to I.G. Farbenindustrie would not be there. He was Bernard Bernstein, Assistant General Counsel of the Treasury De-

partment during the years before Pearl Harbor. Early in 1941 Bernstein had wired me in Camden to come down and help out for the "short while" that had lasted over six years.

As Bernstein's Chief Counsel of Foreign Funds Control, I had helped to freeze I.G. Farben's assets in the Western Hemisphere. Bernstein and I had worked on the executive order which placed under the vigilant eye of the Treasury Department Farben's main holdings in the United States — the companies of the old American I. G. Chemical Corporation, which was renamed "General Aniline and Film Corporation."

Then the Treasury had sent me on a journey through a dozen Latin American countries, to try to get their co-operation in defending the whole hemisphere economically. I found that I.G. Farben dominated the political and economic life of many small countries. Guatemala was practically a Farben subsidiary. In June 1942 I was secretary of a conference in which twenty American republics finally agreed to do battle against Farben, the Japanese Zaibatsu, and similar interrelated interests. According to the exact words of the conference, as I remembered them, these interests had "been plotting the downfall of the free peoples who gave them an opportunity to prosper and grow rich by honest trade."

This agreement had not been easily reached. To an extent unknown even by the presidents of the Latin American republics, Farben had so extended its influence in synthetics, and had gained control of so many banks, that to close down or boycott their interests would have led to serious economic depressions. The United States had urged the taking over of General Aniline as an example to the other American governments; we offered to start a school to show them how to do it. But the Latin American representatives had tactfully pointed out how naive the United States was. "A school! It's all right for you in the United States to close down one big company. That has perhaps a small effect on your economy. But a move like this would wreck us. Can you tell us how to replace the employees that I.G. Farben would take out of the country? Can you replace their scientific knowledge? Have you got the people to send us from the United States?"

But now, on the eve of 1947, although the current activities of General Aniline and Film were still extremely important, few people in Washington cared any longer what General Aniline did.

After taking care of my tax case at the Treasury, I wandered around to F Street, where the Capitol Theater was playing "The Best Years of Our Lives." Remembering the picture, I envied the veterans — not the wounds of battle, nor, later, their trying to find homes and jobs, but the fact that they had *won* something. When a battalion captures a town, foreign policy cannot take away the victory. When the Allied troops were splashing onto the Normandy beachhead, I was preparing to go to London to work out France's makeshift money system. Already we had closed down factories by financial blockade, had frozen the enemies' assets. These measures, as well as tactics and medicines, had saved some lives. But our battle was now a stalemate, and the men who believed that economic warfare never ended had left the government, feeling so out of line with the new policy that it would be useless to stay.

Again I thought of Bernard Bernstein. General Eisenhower had appointed him his financial advisor, on recommendation of Secretary Morgenthau, when the prospective invasion of Africa was still a well-guarded secret. Although Bernstein was a colonel, he carried the war of money personally to the front lines. The North African invasion took place in November 1942, and I joined Bernstein there in December. Together we worked out the system to block enemy assets in Algiers, Tunis, and Casablanca and to set up a sound currency. There was no thought then of bringing to trial any businessmen.

After I left North Africa to go back to my desk in the Treasury, Bernstein had traveled with the invading troops, into Sicily and Italy and France. Then, just before the Allies invaded Germany, he gathered under his command a group of infantrymen who had been Treasury investigators, to search for the business records and the history of every important firm on the continent. My brother Herb, who had marched into Germany as an infantryman, had been requisitioned by Bernstein to find the gold which the Nazis had hidden in salt mines, in chicken yards, and in the Bavarian mountains. The gold-hunters unearthed 99 per cent of all the gold bars in Germany, most of which had previously been stolen by Germany from the countries it overran. Again, I.G. Farben-industrie had been only one objective; the mission's purpose was to discover what influence industry and investments had played in the coming of war. They would still play their part in future wars.

I couldn't get up the courage to go over to the War Department without first phoning Bernstein.

I went into a corner store and called Bernstein's New York office. His deep voice greeted me without preliminaries. "Hello, Joe. I understand you're in Washington. Are you thinking of going to Nurnberg?"

"No," I said. "The news travels fast. I did want to ask you what you thought about it. Why don't you take the job?"

"No, thanks."

"I didn't expect you would, after just getting back into practice."

"There's that and — well, I don't believe it would be a good idea, under the circumstances, for me to head up any prosecution of German industrialists."

We chatted for a few minutes. I waited for him to say, "Go ahead, you take it, it's an opportunity." But he didn't. He laughed. "If you do go, Joe, get Abe Weissbrodt to go with you. He's always good for a laugh."

"You're kidding. You really don't think he'd go?"

"No — just a joke."

We said good-by, and that was that.

Bernstein's final report on Farben had gone to the Kilgore subcommittee. Much of it was still secret. It was not like him to make a joke of anything involving his service with the government. Stories of his bravery had become legendary, but he'd been so implacably serious that some of the boys who had worked for him asserted that his bravery was unconscious — that to him bullets were mere annoyances in an economic war.

Get Weissbrodt? Weissbrodt was a very capable man; it was surprising that Bernstein had recommended his frankishness rather than his ability. Weissbrodt, who had tracked down some of the first evidences of Farben's influence on the Continent, had been an infantry corporal ready for discharge by the time he got the call from SHAEF. Three times he ignored orders to leave his company and proceed to SHAEF headquarters in London. Then he was given a choice: investigate or take a court-martial. By this time Colonel Bernstein was in North Africa.

"But where in North Africa, sir?" he asked his commanding officer.

"Somewhere in North Africa. Go find him and report."

Some days later the corporal found him in Palermo, Sicily. A

raid was going on. The Allied command area was deserted except for Colonel Bernstein, who was striding down the headquarters street with two briefcases under each arm, looking neither right nor left, apparently oblivious to the enemy bombs falling all around him. The corporal caught up with him and saluted. The colonel answered by raising two of the briefcases in the general direction of his face, and smiled faintly to acknowledge their past association in the Treasury. Then the corporal started to run, and the colonel called him back.

"Weissbrodt, where are you going?"

"To find a shelter, Colonel."

"Weissbrodt, I have a nice job for you. You go find the Banca d'Italia and close it. Shut her up tight."

"But, sir, I haven't got time to close any banks."

Bernstein was offended. It was reported later that he honestly felt he was giving the corporal an opportunity to distinguish himself. "Weissbrodt!" he exclaimed. "Where did *you* ever get a chance in your lifetime before either to open *or* close a bank?"

I found myself in the Statler Hotel, phoning another of the first Farben investigators who had stayed on in the government. What was I doing in town? I told him. Deftly he shifted the talk to the Washington weather—it was warm for December. Had I got mixed up in something that had lately turned subversive? . . . This very week the President had established a Temporary Loyalty Commission, and that had scared many of the absolutely loyal, along with a few who were presumably disloyal. I thought: Whatever else you might say about the Roosevelt administration, at times a genial friendliness rose above even the most unutterable confusions; people stopped to ask you the time. In its place was a wary watchfulness.

I stayed at the Statler longer than I should have, listening to three men at a table near the bar. Their politics were not disclosed. Discussing the last war, they were turning their backs on it, looking forward to the next. Between the two wars they found not even a psychological connection. They agreed vociferously and bitterly that the last war had been unnecessary, whereas the next was inevitable. We had fought the wrong enemies, apparently by our own choice and without a single righteous reason. But the next war would have an honest moral basis.

Everyone was afraid these days, I told myself. In 1932 the

American people had been afraid too; but their fear had sunk to a warmly communicable despair that often yielded positive action and a defiant release from the thing Franklin Roosevelt called "fear itself." Now the fear which the government should be meeting with vigorous courage expressed itself in an apathy and cynicism more disturbing than bonus marchers or farmers standing on their front steps with pitchforks in their hands.

These men in the Statler bar—their views were exceptional, maybe. But how many normal voices were heard in Washington? How many others, fearing the evil prospect, would greet the future world with solutions that stood upon the worst features of an equally evil past? Fear may come to the mind long before physical danger. Footsteps may march up and down the hallway time and again before the knock comes on the door. Then a sudden terror, as if your mind, loosely planted, has been uprooted before it can reach down to the soil or up to the sunlight. . . .

Colonel Mickey Marcus, who was later killed in Palestine, headed the War Crimes Division of the War Department. In the labyrinthine Pentagon Building, his office was distinguished from hundreds of others only by the name plate beside his door. He and I had got to know each other while drawing up the Army laws for invasion-and-occupation currencies. Having served at one time as Commissioner of Correction in New York City, and having helped to draft the Italian, German, and Japanese surrender terms, he could be tough and gentle by turns—although it never seemed to me that he enjoyed the tough role. He had my letter before him.

"As I get it, you're interested enough to discuss it seriously."

"That's right," I said. "Do you think there is enough evidence to connect them with the war plans?"

"I haven't seen the evidence. But I doubt it."

Mickey began to pace, occasionally stopping abruptly, frowning back at me. Now he came back and sat down.

"Certainly a trial would have great military value if we could get all the proofs together. Right here in Alexandria there is a warehouse full of Farben records that no agency has studied. Other countries went digging for Farben documents, too. In the heat of victory they wanted them; then they stuck them away in corners."

"Why couldn't the prosecution staff be increased?"

He ignored my question. "Maybe the Farben leaders were masters of economic warfare, but if I were a judge, I would want to know how you blame a war on men who weren't even in the Army or the foreign office. I'd want to know what made Farben any different from, say, DuPont in this country."

"Don't you think the Farben leaders were different?"

"Yes, I do. Still, they didn't pull any triggers."

I agreed. What puzzled me most was that a staff had been over in Nurnberg for months, and a lot of accusations against the Farben directors had been flung around, but no single idea had been presented to show why these men, above all industrialists in the world, were the kind of men who would deliberately bring on a war. "Yet I don't think we have to show that these directors lusted for blood," I said. "We don't have to show that they enjoyed pushing pins around on a map. But suppose we could show that they had power far greater than any general in the field. Then how would the War Department feel?"

He was slouching in his chair, swiveling slowly.

"In this Department, we're thinking about two things: Russia and the atom. God knows these things are important, but I think myself — just my own opinion — that we may have a lot more to fear from the Russians if we don't consider some other facts, too. Many of these Farben men were chemists. Chemistry played its part in the atom bomb — right? There are also other deadly chemical weapons that a country can make in secret. These men made some of these weapons, we know that. A country cannot very easily test an atom bomb in secret, but for ten years these guys *did* make secret weapons that are still important strategically. How did they do it? There's a question a trial might answer. Chemistry today is still the greatest secret weapon."

He loosened his tie, climbed out of the chair, and walked around the office with his hands in his pockets, as he explained that chemistry was the sperm of World War II.

"I know, I know: you're going to say I'm reversing myself. But it's true. In this war, in Germany at least, chemical production was not just production. It was strategy. It takes a long time to make an atom bomb. But without retooling any machines, without changing anything but the label and the size of the can, in a few months the great chemists of Germany made enough Prussic acid to kill millions. And in Germany, chemistry was I.G. Farben, wasn't it? These men could make a kind of war people don't

even know about. Let them go free, and they alone, working for the Russians, might have the decisive influence on whether there's to be a war."

"Or working for us?"

"Or for us, yes. They might also place Germany in a position to play the game both ways, for or against the Russians. We know that they can make a rocket tomorrow out of the nitrogen that would dye your wife's old dress today. When the war ended Farben was working on a rocket that would make the destruction of Hiroshima look like a small auto accident."

His knowledge of Farben chemical power made an almost unbelievable tale, much of which I had never heard. I had heard of Tabun, the Farben poison gas so deadly it could penetrate any gas mask in existence. But Farben had developed, he said, the gas Sarin, as deadly as Tabun and more persistent in its future effects than the atom bomb. On instant contact Sarin sends the victim out of his head. In one secret raid, carried by less air power than an old barnstorming circus, this Sarin could exterminate three or four cities — and it might be a hundred years before people could again live in them.

"I don't get it," I said. "You tell me all this; then you weakly ask me to take a job you're not especially anxious to have filled."

"You don't get what I'm trying to tell you, Joe. I personally don't want to discourage you, but a lot of people in this Department are scared stiff of pinning a war plot on these men. There's no law by which we can force industrialists to make war equipment for us right now. A few American manufacturers were Farben stooges. And those who weren't can say, 'Hell, if participating in a rearmament program is criminal, we want no part of it.'"

"We'd have to show more than just manufacturing, you know that. We'd have to show that the defendants made the stuff *intending* it should be used for aggression."

"All right, I accept that — but would the DuPonts and the Fords?"

"Then if everyone around here is cool on a trial, what's keeping the idea alive?"

He smiled. "The picture isn't all black yet. As far as I'm concerned, you could go over there for as long or as short a time as you liked."

It didn't occur to me that I had to say yes, in so many words. I had never before imagined Farben production on the brink of

war. If the Farben directors were guilty, their business tactics and their production must have so merged with military tactics as to make the three things almost indistinguishable.

"I'm not convinced that we can accomplish what such a trial should accomplish. Four months ought to be long enough for me to find out."

"I have no objection to that. Within a few days after you get home, you should get a wire from Telford Taylor agreeing to it."

General Telford Taylor, former General Counsel for the Federal Communications Commission, had succeeded Justice Jackson as American war-crimes chief in Europe. Taylor was running into opposition on the whole idea of continuing the Nurnberg trials. Farben's Dr. Otto Ambros was still working in the French zone, and the French wouldn't give him up. And the British had refused to give up another of Farben's great industrial scientists. If the various governments weren't strongly behind a trial, how could you blame businessmen in this country for thinking that the trial was being pushed by crackpots?

"Just one more question. If I go over there, will you back me up the best you can?"

"My only duty is to tell you we don't like having an aggressive-war charge. But if you can prove it, go ahead, and I'll try to see to it that nobody over here dictates the terms of the indictment."

At home, a telegram from California awaited me. I should have known Ed Pauley would stick his neck out!

DEAR JOE: YOUR LETTER HAS JUST NOW COME TO MY ATTENTION. YOU ARE THE BEST QUALIFIED MAN IN THE UNITED STATES TO DO THIS JOB AND WILL BE MAKING A GREAT CONTRIBUTION TO THE NATION AND FOR THE PEACE OF THE WORLD.

EDWIN PAULEY

4. "If We Lose the Next War—"

SOON AFTER WE TOOK OFF from Washington National Airport, bound for Paris, the plane ran into a cold front and deep pockets. We were driven north. I had flown in storms before; yet I was uneasy.

Nor did I feel much better after the pilot picked up the report that all was calm to the south. Then the C-47 rode on leveled winds, but its gray fuselage was still smudged from combat. And I remembered the "peacetime" of my college days and how simple it had been then just to argue war away. On the University of Pennsylvania campus, our devils were not Dr. Ambros or Dr. ter Meer; they were Hiram Percy Maxim, inventor of the silencer, and Vickers-Armstrong of England and Schneider-Creusot of France. Some student organizations thought they could banish war simply by resolving that these men should not make munitions. Even then, I.G. Farben had been more important than the others, though we had not known it.

The plane dipped across an archipelago of green forests. We flew low over a tiny lake. The Azores — one place where Farben had never been!

At home was my son to whom I hadn't said goodnight often enough, and a little girl who sat on my lap with wary dignity. If they survived another war, would they get from their parents nothing better than the stale generality that one man, or one ideology, or one type of industry, had robbed them of the best years of their lives? No — if indeed the Farben directors were guilty, they must have done more than produce. When did munitions become not just a war need but a power in itself to start or stop a war? If these men were guilty, there must have been many times when they could have turned back and didn't. Their power must have accumulated for months, maybe years, before the outbreak. In the time before armies marched were staked the guideposts, miles ahead, of future peace. The possibilities were breathtaking.

We flew straight for the Old World. At Paris the plane stopped for an hour before we took off again, for Frankfurt, Germany. Over Luxemburg, we cruised opposite the northern tip of the Saar Basin. A mist veiled the city of Luxemburg. The slate

spires, the ancient fortifications, looked no larger and no more vulnerable than a bird's-eye view in a history book. Then east of the city the mist cleared, and we saw clearly the apex of that first industrial line of defense to face the Nazis as they began their march into the Lowlands of Western Europe. By a unique strategy, in spite of Nazi decrees against German exploitation, I.G. Farben had waged a separate battle in this strip. Thanks to the Allied Military Government, the territory from Luxemburg down past Strassburg in Lorraine, and south to Mulhausen in Alsace, was still largely Farben country. Farben had stolen oxygen plants, acetylene plants, and dyestuff properties.

The end of our flight was Frankfurt. Here the American Military Government headquarters was housed in the home office of I.G. Farben. Though the vicinity lay in ruins, this huge building had not been bombed. Checking in, I was told that General Taylor was in Nurnberg. No plane was scheduled for Nurnberg next day. I decided to fly to Berlin to check in with General Clay.

The landing strip at Tempelhof Airport pointed the way to pyramids of granite stacked along the gutted avenues. Under the rubble the dead still smelled, though a year and a half had passed since the surrender. Almost two years from today, long after my assignment was to have been completed, I would come through Berlin again, and, passing close to one pile of debris, sniff the same carrion odor.

I phoned General Clay's office. His secretary gave me an appointment for late afternoon. I wandered over to the Unter den Linden. Some distance north, Farben's Berlin office, "Northwest 7," had towered above the tony dress shops and modern apartments with Gothic balconies on this, Berlin's most famous avenue. I wondered whether Berlin Northwest 7 had survived the awful bombings. Farben's president, Hermann Schmitz, had set up the office in 1927 as his personal filing cabinet. Then he had turned it over to his nephew, Max Ilgner, another Farben director. In the spring of 1929, soon after taking charge at Berlin Northwest 7, Max Ilgner came to the United States to set up a new company to sell Farben products in America. This was the American I.G. Chemical Corporation. He expanded the sale of dyes and ozalid paper and Agfa cameras quickly enough to arouse notice even during the first year of the Depression. While American I.G. was a "family firm," shared largely by the younger relatives of Ger-

many's chemical moguls, most of these men became American citizens. And within two years, the board of directors included Walter Teagle, president of Standard Oil Company (New Jersey); Charles Mitchell, president of the National City Bank of New York; and Edsel Ford.

So far, so good. But in 1931 Ilgner returned to the United States to form another New York corporation called "Chemnyco." The stated purpose of Chemnyco was to handle patent arrangements for Farben with U.S. firms. One of Chemnyco's directors was the son of Carl Duisberg, Germany's most noted older scientist and first chairman of Farben's board of directors. A prominent stockholder was the son of Walther vom Rath, the first vice-chairman, under Duisberg, of Farben's board. The young Duisberg and the young Vom Rath became American citizens.

Then the United States government got curious about the whole setup. Ilgner was a statistician, and his Berlin office was called a "statistical office." Not a patent expert, why was he the head of this patent firm? Ilgner belonged to business organizations in twenty countries. Businessmen generally had regarded this as an eccentricity; still, several facts suggested that it might be a front for undercover activities.

In 1934, Max Ilgner appointed his brother Rudolf, long an American citizen, to manage both firms. And in 1937 Max and Rudolf transferred the "statistical unit" of American I.G. Chemical Corporation to Chemnyco. A spate of secret dispatches flowed between the Chemnyco office at 520 Fifth Avenue and Ilgner's Berlin office.

The Department of Justice finally subpoenaed Chemnyco's "statistical records," while investigating alleged violations of the anti-trust laws. These records had been destroyed by Rudolf Ilgner. Rudolf was indicted only for "obstructing justice." He pleaded guilty and was fined \$1000.

Records destroyed in New York — records buried in Berlin. Had anyone on the prosecution staff solved that mystery? Berlin Northwest 7 was too long a walk from Tempelhof Airport. The answer would have to wait until I got to Nurnberg.

I stopped at a newsstand. The Farben issue was not dead in Berlin. One of the Soviet-licensed papers featured the charge that I.G. Farben was still going strong. The workers were exhorted to rise against their "Western oppressors." That reminded me of the Communist line I had heard everywhere I went: *You have*

lived through the Fascist terror, and now you are being overwhelmed by super-capitalism. Everywhere the Communists wildly charged that capitalism and Fascism were brothers under the skin. Instead of pulling out the slivers so that we might hold our healthy hands in answer, we had agreeably helped the charge along by treating outfits like I.G. Farben as normal private enterprise. Was this a deliberate American policy? Of course not. Four times in the last year, the American Military Government had announced that "in accordance with American policy" I.G. Farben had been broken up into smaller units. The fact was that under the same old management — save for a few men in jail, who were permitted to carry on half their duties — Farben shares were doing a lively business on the Bourse. And the office of the American Military Governor, General Clay, was doing nothing about it.

Between visits to friends around the city, I had plenty of time to ponder what General Clay's reception would be. My thoughts went back to July of 1946 when I had joined Pauley in Paris on his third mission. We had been directed to look over conditions in Germany, but President Truman had also instructed us to attend the Paris Conference. Pauley had divided his staff. Luther Gulick (one of Truman's advisors on reorganizing the executive branch), Pauley, and I checked in at the Prince de Galles Hotel in Paris. The rest of the staff, under Martin Bennett, went on to Berlin.

Pauley had given Bennett a letter to General Clay explaining what co-operation the mission would require. Among other things, Bennett was to find out whether the dismantling of certain German war plants for delivery to European countries was proceeding on schedule, and how far Clay had gone toward restoring property which the Nazis had stolen in overrunning Europe. Since the Farben influence had been predominant, Bennett was to check specifically on the Farben plants.

On the day Bennett arrived at Clay's headquarters, we got a phone call from Bennett. Pauley was paged in the dining room. "Why don't you boys come up to the suite with me?" he said. "Bennett may have some questions for you, too."

In his room, we sat on the bed while Pauley picked up the phone. ". . . Yes, yes, this is Mr. Pauley. . . . I understand Mr. Bennett is calling from Berlin. . . . Yes. . . . Hello, Martin." There was a long pause. "Well, did you show him your credentials? . . . All right, Clay will be here tomorrow. Just sit tight until I talk to him."

Hanging up, he turned to us. "Well, boys, Bennett showed our papers and it seems they're not good enough. Maybe we'll have to get into Germany by way of the underground."

Bennett had shown his credentials to General Clay, and Clay had said that he thought it a very serious question whether Pauley had any valid authority to make this investigation. Bennett was flabbergasted. What more valid credentials could he present than a letter from the representative of the President? Clay answered that he was going to Paris tomorrow and that he would talk to Pauley then. Bennett had then asked Clay what he should do in the meantime, and Clay had said: "You may talk to the staff if you wish, with the understanding that it's not official."

Gulick and I were flabbergasted, too.

Bennett had been on one Presidential mission, and, besides, was friendly and diplomatic by nature. Gulick and I figured immediately that Clay must have doubted Pauley's authority because he considered Pauley a dead duck politically. Only a few weeks before, Harold Ickes and others had tried to persuade the Senate that Pauley would not make a competent Undersecretary of the Navy.

Pauley was amused, and not as excited as Gulick and I. He said, "Well, boys, I may be dead but I'm not buried yet. If he's looking for a fight, he's going to get it." He turned to me. "That's about what I'd like to say. You put it in official form." He picked up the phone and ordered a round of drinks.

Gulick and I discussed the approach; then I called in a secretary and dictated a letter reciting Pauley's written directives from the President. I concluded by saying that if, after reading this letter, Clay still felt that the mission did not have proper authority, Mr. Pauley would have no alternative but to cable the President that he was unable to carry out his orders because Clay had, in effect, canceled them.

After reading the draft, Pauley said, "This'll do it, OK. Let's have this delivered to Clay's suite so that he will get it when he arrives from Berlin tomorrow afternoon. Also, Joe, as a matter of course, let's cable a copy of the letter to Justin Wolfe." He smiled. "Wolfe might get a kick out of this."

Pauley's Washington office was in the State Department Building. His on-the-spot assistant there was Justin Wolfe. Being on a Presidential mission, however, we used White House stationery and appropriately cited the White House as our authority. So we

did not think it significant — although it gave us a good laugh — when next morning we got this cablegram:

CONGRATULATIONS ON YOUR LETTER TO CLAY. IT WAS
A BEAUT.

WOLFE — WHITE HOUSE

Gulick looked at the cablegram and said: "Does General Clay know Justin Wolfe?"

"I don't know," I said. "Why?"

"Because this cable was relayed through Clay's headquarters in Berlin. Apparently Washington doesn't realize we have arrived in Paris. Wouldn't it be funny if Clay thought this cable was coming from the President direct instead of from Wolfe?"

That afternoon General Clay and his economic advisor, General Draper, checked in at the Prince de Galles. During the 1920's Draper, an executive in Dillon Reed Company of New York, had made many investments in enterprises in Germany.

Clay and Draper were talking heatedly as they left the desk. They came over and sat on a sofa with their backs to me. From a couple of loud remarks I overheard, I surmised that they must have been informed of Wolfe's cable. I went back up to Pauley's suite and told him what to expect. About an hour later, the phone rang and Pauley answered. "I'll be able to come right away." He hung up. "Here we go, boys."

Pauley got back from his conference a half-hour later. He was shaking his head. "I can't believe it," he said. "This is getting to be pretty serious. As soon as I walked into the room General Clay said, 'I'm resigning.'"

Pauley explained that for some time after he'd entered, Clay had been literally shaking and kept repeating, "I'm resigning. Either I'm the boss in Germany or I'm not."

"Well, Lucius," Pauley had answered, "do what you want; but I believe you would be doing a great disservice to our country to pull out at this time. You are doing a grand job and to quit over an issue like this seems rather silly."

We were all puzzled at this amazing development and speculated that Draper might have been egging Clay on. By all reports Clay had been working day and night, and he looked very tired. It was my personal opinion that Clay must have thought the cable from

"Wolfe — White House" had the support of the President and amounted to a Presidential rebuke.

Clay never did officially admit our authority, nor did he resign. Pauley sensed this at the time and telephoned Bennett to "go ahead anyway unless they stop you."

Since the Paris Conference, I had come to believe that perhaps the clash between Clay and Pauley signified more than a personal incident, and that General Clay exemplified, more than any other official in Germany, the paradox of our policy in Europe. This policy had become steadily more perplexing. At Paris, Molotov announced Russia's program to build a strong industrial Germany. This was the first public bid for the favor of the German interests which had supported Hitler industrially. After the Paris Conference, of course, both East and West began openly outbidding each other. I believed that the discrepancy between the Potsdam agreement of the year before and these conflicting bids for German favor was never far from Clay's mind and must have had something to do with his reaction to the Pauley mission.

But in January 1947 bygones were bygones, apparently. After I was announced, General Clay flung open the door and came into his executive office, hands outstretched. "Come in and sit down."

We soon came to a discussion of the theme I had been preaching since 1944. To build up Germany again as the industrial heart of Europe, particularly if controlled by the very businessmen who had helped lead Europe to war, would lose us our best European friends.

As he saw it, Clay answered, the problem was how to keep Germany strong enough industrially to maintain a healthy economy, without permitting such an economy to serve the German groups which were still fanatically militaristic. Certain provisions of the Potsdam agreement had been designed to forward exactly that aim, and Clay was not enforcing these provisions — though I did not believe this was all his fault. The program for turning over excess German war plants (and there were many more such plants intact than was generally known) to the devastated countries, for the rebuilding of the general European economy, had been unpopular among many top officials of the State and War Departments.

I remarked that since 1945 we had done little to reassure the

European peoples that Germany wouldn't, sooner or later, become a dominant military power again, with the blessing and support of the West. Even supposing that never happened, hundreds of thousands feared it, and this fear had driven many to an alliance with the East. I added that I felt that the trial of the I.G. Farben directors might at least help reassure the Europeans that the Americans were opposed to restoring the power of the aggressive German industrialists.

Clay replied that he was "in general sympathy" with the Farben trial, though he had some questions which no doubt would be answered as time went on. He was vehement in saying that no German general should be tried on the charge that his part in the war was a crime. "If we lose the next war," Clay said, "that would be a precedent for trying our American generals."

"Only," I pointed out, "if the American generals conspired to launch an attack against defenseless neighbors."

I was pretty discouraged. Clay was boss here. By this time, his political advisor, Robert Murphy, had refused to hand over to General Taylor a good deal of incriminating evidence against some of the German diplomats. Most generals didn't want the generals tried; the diplomats didn't want the diplomats tried; our industrialists didn't want the industrialists tried; and now, I thought, it would be logical for Truman and Attlee to proclaim that the trial of Goering was a mistake. Then, after any future war there would be only one group left to try — the victims in their graves.

PART TWO

THE INVESTIGATION

5. *Furth Airport*

AS I WALKED DOWN THE PLANE RAMP, a woman and a man hurried across the runway. She took long strides that would have been ungainly in anyone not so tall; her high heels struck the macadam so vigorously that her long blonde hair — she wore no hat — bounced up in an answering rhythm. He paid no attention to her until, dropping my bags, I shook her hand and said, "Hi, Belle."

Belle Mayer had worked under me when I was Assistant to the Secretary of the Treasury. It was she who had suggested to General Taylor that I take over the prosecution of the Farben directors.

He kept nodding at her impatiently until she introduced us. "This is Sprecher. He's been commanding the troops since the previous prosecutor left."

"Commanding the troops" was a funny way to put it. I smiled. We shook hands — or, rather, his grip subjugated mine. He had a pleasant, deep voice. "I won't be brushed off by a single name. The name is *Drexel* Sprecher. I have a great deal to report to you, and there's no time like the present."

"You don't have to be so eager; it can wait, Sprecher," she said briskly. "I know Joe will want to freshen up first, won't you?"

Before I could answer, Sprecher said: "I'll carry your bags. I'll handle everything."

"That's all right," I said. "I can get them." But he had already seized my bags; he swung them back and forth as easily as if they were empty. I am a fast walker, but I had trouble keeping up with them. We threw the bags in the back of the staff car, and the three of us got into the front seat. "To the hotel?" Sprecher asked.

"I'd like to stop at my office, if I have one — just to drop off these briefcases." Sprecher smiled, obviously pleased that I would head first for the office.

Sprecher drove fast, repeating briskly that there was "no time like the present" to brief me on the case. As he drew his breath to begin, Belle admonished him, "Slow down, Sprecher," but we sped along until we rolled from the black dust onto the highway to Nurnberg. Now and then a windowpane flashed at our lights, but most of the time we rode in an abandoned world of jagged shadows, gaunt apartments. It was after curfew. The statistics of damage meant nothing; those shadows were the whole of the city's life. Even the piles of white rocks beside the curb were a futile neatness which in a few days would again be blotched with the color of devastation. "All the German cities are alike after dark," I said.

"All except Heidelberg," Belle Mayer said. "Slow down, Sprech!" But he kept driving as fast as before, and she turned quickly to me. "How was the flight?"

"Fine! I had a perfect view of Luxemburg. Reminded me of Karl Wurster, of course. He took the lead in grabbing the chemical industries of Luxemburg and Alsace and Lorraine for Farben. We might have a spoliation charge against him at least. What do you think?"

"What do the French think, that's what matters."

"So the French have Wurster, too."

"Yes." She was watching Sprecher again; she didn't care to talk. Sprecher said: "Most of those plants in Alsace and Lorraine have been returned to their original owners."

"That's no defense for Wurster," I said. "But it does weaken the effect."

"Wurster took the initiative all right," she said idly. "Still, maybe he will say that all that happened after the war started — and how about you Americans and your booty!"

Sprecher laughed. "I have a fifth of brandy up in my room, and it will not be returned to the original owner."

"As if there's any left to be returned," she scoffed.

"All right, Belle, all right."

I said quickly: "Is Wurster working with Dr. Ambros?"

"They're both in Farben-Ludwigshafen in the French zone," she said. "We've tried to get them several times, and the French still won't let them go."

I broke the tense silence again. "I spent last night in Berlin. Saw General Clay. Berlin was worse hit than a lot of cities, wasn't it? What do you hear from the Berlin Northwest 7 office?"

I understand that's where Farben kept most of its hot records."

She tugged at my arm, very excited. "Wait'll you hear. I'm working on a tip now. When I first came here everybody was saying, 'Go to Berlin Northwest 7'; so I went up there and there was nothing but rubble. The Russians got there first when the war ended, and it was rumored that they excavated and took huge quantities of Northwest 7 documents to Gross Behnitz — know where that is?"

"Never heard of it."

"It's a castle, near Naven, up above Berlin."

"So that's the tip!"

"No, no. Let me tell you what happened. So I sent a couple of G.I.'s up to Gross Behnitz and they —"

The car swerved as Sprecher slammed on the brakes. "Oh, what's the use of talking?" she said. "Where did you get your license, Sprech?"

"You told me to slow down." He laughed.

We pulled into a driveway. A gas lamp a block behind us lit the parking lot, casting only enough dull yellow light on the building ahead to turn it into a Gargantuan shadow. This, she explained, was the Palace of Justice.

She went up the walk, bent forward but beckoning us to follow as if an invisible enemy were dragging her away. Near the entrance she was stopped by a slender young man who apparently had come up another walk. They said hello in German, and she rummaged in her handbag and came up with several cigarettes which she handed to him. He bowed. "Tomorrow?"

"I don't know," she said. "I'll let you know."

She explained as we went up to the first floor of the Palace. The young man was a student who had translated some documents for her. "Unofficial personnel" — her voice was exasperated.

Sprecher added: "None of the lawyers here have enough translators or analysts."

"But some," she said, "have more than others, haven't they, Sprech?"

"I can't help it, Belle," he said.

A rectangle of light cut the dark hallway in two. We stopped in the office doorway. "This is not yours, Joe," she said. "Come in and meet Jan Charmatz."

Our voices had echoed loudly, but not until we came several steps into the room did the bald man at the desk notice us. He

looked up through thick-lensed glasses, nodded, and got up from the desk.

"Jan," she said. "This is Joe DuBois. Jan Charmatz."

I remarked that he was working quite late. He walked to the back window and pointed to the dim light from another building not far behind the Palace. "Belle can tell you we have encountered some difficulties." He spoke precise, imperturbable English. "The Farben directors have eighty lawyers and hundreds of Farben employees working for them. We have twelve lawyers and less than twelve interrogators and investigators."

She laughed. "The prisoners may be worried, but I think they get more sleep in the jail than we get outside."

As we went on down the hall, she began to praise Charmatz while Sprecher cleared his throat. She and Charmatz had worked together for months; yet all she knew about him was that he had been a professor at the University of Prague. He had never explained why he had come to Nurnberg. "He doesn't drink, he doesn't smoke, he doesn't dance and he doesn't get fresh and he never speaks about anything but work. You know me, Joe; I tell him about my home in Suffern and my sweet sister — well, he's never mentioned any sisters or brothers. I don't think he even had a mother and father. He must have been born out of a book."

"Yes," Sprecher said. "Every staff needs a toiler."

She flared up. "You're a toiler, too," she said. "Without Jan we wouldn't have a chance on an aggressive-war charge. He'll be there till three tomorrow morning. Or if he can't get his translator's work done by then, he'll stay till four."

Sprecher shook his head in admiration. It couldn't be helped; personnel had been overworked in Nurnberg since he had come here to be one of Justice Jackson's administrative assistants in the Goering trial. But maybe Charmatz could take a *little* time off.

"Sure," she said. "A long vacation to the water fountain and back."

Stopping in front of another office, they flanked the doorway as if they'd measured their distances from it equally on each side. Whatever the matter was, both were trying to be fair. I switched on the light and went in.

This, my new office, was topsy-turvy with documents. I laughed: "The thief who ransacked this room got away without a thing." They did not hear; their voices came in from the hall. She was

not complaining about overwork, she said; no, it was just that he, Sprecher, was demanding the impossible now that she and Jan had lost their best assistant. Sprecher had given her a deadline for the preparation of some documents, and they would not be able to meet it without help. "Either get it by that date," she mimicked him, "'or don't get it at all.'" Didn't he understand it was impossible? As they came into the office, Sprecher patted her on the back, saying that if she were not so capable she wouldn't have to get along with less help than some of the other lawyers — she'd have to do the best she could.

"I'll leave my briefcase here," I said. "Do I need to lock the door?"

"No." They spoke amiably. But they were not anxious to leave the office.

Contrasted to the methodical Charmatz, they both moved with ceaseless energy, Sprecher covering the floor in long strides while Belle sat, rose, marched to the window, her hands kneading each other all the while. I was very tired, but things were in a mess. The previous prosecutor had resigned suddenly, giving as his reason that some of the prospective judges were unqualified. Actually, he came from New York City; many of the judges came from other sections of the country, and he knew little about them.

Two tables along the wall were piled high with documents. I put my briefcase on the pile, but it slid onto the floor. "Don't pick it up," Sprecher said. "As long as you can find yourself around here, you're lucky."

I nodded. "Well, personnel problems will have to wait until tomorrow. Before I check in, just brief me on the status of the investigation. Where were we? Supposedly, the Russians excavated at Berlin Northwest 7, and you heard that they had taken the documents to —"

"To that castle up at Gross Behnitz," she said. "So I sent a couple of G.I.'s up there."

"I assume Sprecher approved that," I said diplomatically.

He nodded.

"Yes, he did. Well, the G.I.'s said to the guard: 'We want the records that were shipped up here from Berlin Northwest 7.' The guard said that the documents were in one of the big rooms there in the castle but he could not enter and no one else could because the room had been sealed up by the *Swedish* legation! The guard insisted the Russian government would be committing an act of

hostility against the *Swedes* if they opened that room up. Then we wasted days contacting the Swedish officials in Berlin, but they claimed they didn't know anything about it. So I sent a translator and a couple of really tough Army boys up to Gross Behnitz, and they just walked in and broke the seal."

"What did they find?"

"The room was empty."

"Empty! Where did the stuff go to?"

"You figure that," she said. "Colonel Bahaar in Berlin — he's about the only Russian there whose word might be counted on — backed up the Swedish legation. Bahaar swears the Russians never excavated at Berlin Northwest 7. But Hermann Schmitz had a huge personal fortune in Sweden and plenty of influence there. Now, who's lying?"

"Could be the Russians," Sprecher said. "They take an empty room and seal it up; then they let the Americans know so that they'll come snooping around and tell *Tovarich* all about the big secret the Americans are looking for!"

"Maybe," she said laughing. "Maybe not. Anyway, we have to figure back to Berlin. Berlin Northwest 7 was part of the Laenderbank Building. We know there were two basements. In the top basement were the vaults, and Colonel Bernstein's men found some of Schmitz's and Ilgner's belongings there. Then under some debris they found a safe that was empty except for one file. The question is: If the Russians didn't rifle that safe, who did?"

I suggested that Farben men might have cleaned out the safe in a hurry, leaving that one file by mistake. The other records might have been destroyed before the Russians got there. Belle shook her head.

"Maybe Farben men dug up some of those records later, but they wouldn't have destroyed them."

"If they were incriminating records, why not?"

"Don't fool yourself. With their efficiency, they'd take a chance even on getting hanged, rather than destroy them."

"What was in the second basement, below the vaults?"

She slapped a fist into her other palm. "That's it, don't you see, that's the tip! Ever since 1945, it's been rumors, rumors, rumors about Berlin Northwest 7, and now we'll find out once and for all whether anybody excavated below those vaults. Yesterday, Sprech and I sent two more G.I.'s up there with a steam shovel. They should be back next week."

6. Digging — January 1947

THIS JOB IS UNLIKE ANY JOB you've ever had, in or out of government. There is little time to get acquainted. The morning after you arrive, you make a tour in search of a staff that is scattered at various points throughout the ramshackle Palace. Like Belle Mayer and Drexel Sprecher, everyone is on edge from the frustration of trying to do too much with too little, and from the fear that what they have done will get nowhere in the end. You delegate much of the personnel work to Drexel Sprecher for the next week. Then you begin to survey the evidence.

But where to begin? Every day the prisoners are holding board-of-directors meetings, confident that they will soon be released because of insufficient evidence. You pick up a document; it will have to wait until Charmatz' translator returns, for all the other translators are busy. Besides, it doesn't make sense to take in one fact after another without a theory or a direction.

You decide to wait until the two G.I.'s come back from Berlin. But then you have to laugh at the incongruity of two soldiers, neither of them engineers, trying to push a steam shovel forty feet down, looking for something or nothing. No, you cannot wait. You shut yourself off and work your way down one passage after another until you have a clear statement of at least part of your confusion.

The investigation leads, as it led two years before, to two German cities: Frankfurt and Heidelberg. The trail is no better marked now than it was in 1945, when the investigators had gone to the site of Berlin Northwest 7. There they heard the rumor that Max Ilgner had shipped two carloads of documents to Heidelberg, then reshipped them to the Hoechst plant at Frankfurt am Main. The investigators had found a shipping ticket, but the railroad car had vanished. So the trail had led first to a dead end in Frankfurt in the winter of 1945.

When the American Third Army arrived in Frankfurt, they found the Farben administration building crammed and littered with so many documents that it might have been a berserk paper factory. None of the Farben directors was there. D.P.'s were burning documents to keep warm. On the ground floor, nearly a

thousand "employees," apparently more anxious to celebrate their freedom from Farben peonage than to keep warm, shouted and laughed as they tossed bundles of records out the windows. Rumors ran rife that below those records, scattered over every foot of the ground floor, were jewels, money, wine. Every rumor turned to dust. Soldiers began carrying archives into the courtyard to clear the upper floors for the American headquarters; some of the soldiers fell, struck by bundles which tumbled down the stairs.

The Third Army had not fought on paper; they were short of file cabinets and folders. To salvage these, they tossed away vital Farben evidence. More than a hundred tons of records lay dispersed over an area larger than a city block when the Bernstein investigators came down from Berlin Northwest 7.

To salvage the records temporarily, the investigators pitched them like hay into the Reichsbank, near the administration building. But soon the records overflowed to an annex and back into the yards again. Apparently only a Farben expert could straighten out the mess.

Near the administration building, at the Hoechst plant, they found Dr. Ernst Struss, whom they put in charge of moving and arranging the remaining records. Struss did the job in an amazingly short time; it appeared he had a voluminous memory of the Frankfurt records, recalling even how many copies of each document should be found. Struss organized the workmen, who moved the records from the Reichsbank by horses and wood-burning trucks to another building at Griesheim, a half-mile away. A bucket brigade of workmen passed the documents up three flights of stairs. The workmen were thorough, meticulous. At exactly noon the foreman would make a speech explaining what they were to do in the afternoon. They set their watches by his. At 12:55 not a soul had come back to work — but promptly at 1:00 they returned and took up where they had left off. So Struss succeeded in quickly reconstructing the system.

The investigators checked the new files. Every single document belonged to the Farben administration office; none had come on Max Ilgner's shipping ticket. They questioned Struss; surely his remarkable memory must include a knowledge of those secret records.

Of Berlin Northwest 7, Struss had nothing to say, but he was talkative about the Farben directors. In the basement of the ad-

ministration building, the investigators had found money and silverware belonging to Schmitz and Ilgner. Where had these two gone? Struss told them.

Soon after Frankfurt came under heavy bomb attack, Hermann Schmitz and several other directors decided to leave their quarters in Frankfurt and go to their homes in Heidelberg. But important business of some kind had persuaded Schmitz to return to Frankfurt once more. So it was that during the last days of the American advance, Schmitz and several other Farben directors were shuffled around in a railway carriage between the fighting lines, trying to reach Frankfurt. They were shot at several times. At the first shot, Schmitz threw himself into the aisles. The picture of a munitions king, so paralyzed with terror that he stayed on the floor until the train had wound its way back down to Heidelberg, was very amusing to Struss. Obviously, Struss did not like Schmitz, and the investigators were soon to discover that he was not alone in that opinion.

The investigators went on down to Heidelberg. The American Seventh Army was occupying that old city on the Neckar River as a headquarters. The investigators asked a timid old man the way to Hermann Schmitz's house, and by mistake he directed them to the University of Heidelberg. There, in the college office, fifty clerks were busily working, equally unconcerned by the rumbling of tanks on the *Autobahn* not far away, by the boisterous soldier-voices on the campus, and by the 25-odd American civilians who alternately hovered over their desks and inspected the dueling swords on the walls.

This was the new Farben headquarters. The twenty-five civilians were a team from the Office of Strategic Services and the Foreign Economic Administration, who had been briefed on Farben and flown to Heidelberg. They were quick to remind the Army investigators that though they had been there a couple of months, they were still unable to get food and billets from the Seventh Army. Although the Seventh Army headquarters was still, after several months, unable to govern one town well, the Farben office had been operating smoothly since the surrender.

Nor did the investigators work together. Assigned to look into the mysterious General Aniline and Film Corporation, they were convinced that Schmitz was still involved in that firm, since his interest in its predecessor, American I.G. Chemical Company, was well known. The war over, the Department of Justice had again

failed to show an American court that General Aniline was Farben-owned. Standard Oil's president Walter Teagle had sworn he didn't know who owned the \$100,000,000 combine — though he was drawing \$50,000 a year as a director. Somehow the Department of Justice had put through a hands-off order on all documents in this new Farben office, hoping perhaps that someday someone from Washington would drop in and solve the mystery. None of the three investigating teams could inspect the files.

The OSS men, instead of twiddling their thumbs, decided to look around Heidelberg for traces of money. Someone had told them that where they found Schmitz, there they would find money. Schmitz had come up the hard way from a commercial school in Essen, the iron city, and had risen from bank clerk to staff member of the Kaiser's war machine. He had been a director of Farben's predecessor firm, Badische Anilin und Sodafabrik. Also a director of the Deutsches Reichsbank, he was thought to be the wealthiest banker in Germany. In world affairs he had gained considerable respectability as director of the Bank of International Settlements in Geneva.

It is not known why the OSS never found Hermann Schmitz. The Army investigators, leaving the University of Heidelberg campus in search of an imposing figure not unlike J.P. Morgan, jeeped around looking for the "Schmitz castle." But the mistaken directions of the timid old man had been quite understandable. No one would associate the legend of Schmitz with the house he lived in.

On the verdant hillside overlooking Heidelberg, the house looked like a stucco pillbox. A short, bullnecked man came to the door and asked the men who they were. Only after consulting his wife, a dumpy *Frau* in a spotless gingham dress, did he admit that his name was Hermann Schmitz.

They had intended to search the house at once, but he directed them to a small sitting room. They were Enlisted Men — a fact they could not forget because he sat without inviting them to sit and looked up and down the sleeve of one, a corporal, then the other, a sergeant. They felt as if they were in the presence of their own colonel. The feeling soon passed, for after Schmitz had answered all their questions by questioning their authority, they smiled openly at the information on the wall that God was the head

of this house. Frau Schmitz offered to brew a pot of *Kaffee*. Sternly he said *Nein*. Not in the least offended, she stood beside his chair waiting for the next command. And now if that would be all, Schmitz said, they could leave.

They came back the next day, after recovering their equilibrium. Schmitz's face was ruddy with anger when they insisted on a search. By whose authority did they search? Whoever you like, sir, they said; shall we say Eisenhower or Roosevelt?

Schmitz's study was poorly furnished. The desk was plain; the bottom of two drawers fell out as they searched; but they found nothing important there. Beside the desk were two large paper file boxes — not the famous Farben-made fiber boxes. In them the G.I.'s found a collection of telegrams from Hitler, Goering, and others congratulating the "*Geheimrat* Schmitz" and "*Justizrat* Schmitz" on his sixtieth birthday. The investigators addressed him sarcastically by his titles. *Geheimrat* meant Privy Councilor, and when they called him that in mock-respectful tones, he nodded in curt acknowledgment. But he understood he was being ridiculed when they prefaced a question with the address *Justizrat* — Doctor of Laws.

"Doctor of Laws Schmitz, how much money do you have in the house and where is it?" He shook his head.

In the other file box they found a shiny red wooden box, locked. Breaking it open, they found a set of well-made miniature tools. Frau Schmitz explained that this had been a birthday present to their son a few days before. *Herr Doktor* had taken it back because he'd thought it was too good for a boy. She flushed at her slip of the tongue, adding that of course it was too good for the boy — much too good.

Then they searched the upstairs. In one bedroom they found the equivalent of \$15,000 in marks. In the basement they found nothing.

Back in their room at the hotel, they talked it over. They'd been thorough, and neither of the Schmitzes had offered any hint that they had anything to hide. That was just it; the locking of a toy tool kit in a box-within-a-cabinet was pathologically secretive. The sergeant got to impersonating Schmitz, comparing him to a couple of green lieutenants who had dived on their faces at the first sound of a shell two miles away.

"Schmitz stayed up in Frankfurt a lot of the time, didn't he? One day he takes the train up there, and when somebody takes

a pot shot, he comes right back to Heidelberg to stay. But that was before the war was over. Why Heidelberg? Because it's not a strategic city; it was bombed only twice. But *he* didn't know at that time whether it would be bombed again, or did he?"

"That's it," the corporal said. "An air-raid shelter. We never looked for that."

In the Schmitz basement, behind the furnace, soot had disguised the cracks in the door. One of Schmitz's secretaries, a buxom woman who alternated fond looks at the *Geheimrat* with laments about the invasion of his privacy, said: No, there was nothing in there, and since the *Geheimrat* hadn't been in the Nazi army, why didn't they go away?

The shelter was lined with the most durable materials. An old trunk disclosed a thousand disorganized papers. Among them, they found something which, to this day, the Department of Justice has been unable to get into evidence against the General Aniline and Film Corporation — proof of one of the slickest cloaks in financial history.

In the mid-thirties, the United States government had begun an investigation of American I.G. Chemical Corporation. There was considerable mystery as to where some of its products and profits were going. To counter this investigation, Schmitz legally changed the name to "General Aniline and Film Corporation." The General Aniline files showed that their new owner was a Swiss company, I.G. Chemie of Basel, Switzerland. Obviously, I.G. Chemie was a dummy for somebody.

Not until late in 1938 was the United States government able to prove that I.G. Chemie (of which Schmitz was once president) was being run by a man named Gadow, Schmitz's brother-in-law. Whereas Max Ilgner's brother Rudolf had become an American citizen, this man Gadow became a Swiss citizen, which under Swiss law gave him complete secrecy of operation. Through Gadow, during several years of our national defense effort, General Aniline and Film handled a major part of all the chemical business in the United States. And its profits went into the Farben till.

But there was no proof acceptable in a United States court. Just before Pearl Harbor, the Treasury Department used its emergency powers and at last cut off the millions of dollars from General Aniline sales which I.G. Chemie had been relaying to I.G. Farben.

Meantime, while denying ownership in the United States, Farben had been paying taxes to the Nazi government on their General Aniline receipts. When Farben stopped paying these taxes, the collector asked two other directors: Why have you stopped reporting General Aniline income? These directors replied that Farben had sold its stock direct to I.G. Chemie. Then the tax authorities went to Schmitz. He refused to answer, saying that to give information would harm "the German national interest."

Indeed, Schmitz *had* sold to I.G. Chemie Farben's stock in General Aniline and Film. But the joker was this brief memo found in the trunk in his air-raid shelter. It was an "option" by which Gadow agreed that Farben, through Schmitz, could buy back General Aniline from I.G. Chemie at any time. Gadow also agreed never to sell to anyone but Farben.

The fox, though crafty, cannot unload the hunter's gun. Hermann Schmitz was of a shrewder breed. If Gadow didn't pay off, Farben could take back the firm. Yet the profits were not shown to be "legal profits" either in the United States or in Germany.

Having flimflamed two governments, Schmitz now made a move to flimflam his fellow directors. In 1937, I.G. Chemie had "agreed" to pension Schmitz, when he retired, at 80,000 Swiss francs a year. In 1940, he baldly demanded the pension. Here in the trunk was I.G. Chemie's reply: Until he was retired from Farben, which kept its hidden control through him, he wasn't retired from I.G. Chemie.

The other directors, who were being interrogated in Frankfurt, were as surprised to learn of this deal as the investigators had been. Schmitz had a pension with I.G. Chemie? They'd never heard of it. They ordered an employee named Selke to investigate Schmitz. "Find out all his interests," they said.

Selke appeared in Heidelberg a few days later. He was close to tears. To find out *some* of the *Geheimrat*'s interests was possible — but all of them? But the investigators were asking Schmitz about other things then, and he was wrought up enough to call in Max Ilgner and the family lawyer who lived down the road. The icebreaker was a British major who happened by one day. This major, named Tilley, had no apparent reason for being there, since the British had ordered no investigation. But his rank and authoritative manner for the first and only time reduced Schmitz to tears.

Working his way around the walls of the study, Tilley never let up on his questioning. Finally, Schmitz showed him a tiny

safe in a closet behind the desk. In the safe Tilley found photographs of the I.G. Farben plant at Auschwitz. Tilley later wrote:

They became highly emotional. The photographs were in a wooden inlaid cover dedicated to Hermann Schmitz on his 25th Jubilee, possibly as a Farben director, and purported to describe pictorially the achievements of the Auschwitz rubber plant. Page 1, for example, had a picture with a narrow street of the old Auschwitz. The accompanying drawings depicted the Jewish part of the population in a manner that was not flattering to them. The legend underneath said, "The Old Auschwitz," or "As it Was," or "Auschwitz in 1940." The second page began a section entitled "Planning the New Auschwitz Works."

7. *The Address That Wasn't There*

AS BELLE MAYER TALKED, for a moment I almost thought I was back at public school in Woodbury, New Jersey, where I grew up. The floor of my new office was dark with oil, my desk was so small I couldn't get both elbows on it. "Two years since the Army took over," I said. "And not even a blotter to hide the scratches."

She apologized as if she, rather than the United States government, were at fault. For months, file cabinets, more typewriters, and stationery had been on requisition. "I asked those two G.I.'s to drop off another requisition for your desk at AMG, so maybe that will come this week." She sighed. "What's keeping them up there in Berlin?"

"Maybe the steam shovel fell on them," I said. "While we're waiting, let's dispose of Schmitz as of the moment." I tapped the black folder on my desk.

"Surely," she said, "the Reich government would have cracked down if he hadn't been playing some bigger game with them."

"I don't know." I tossed the folder on the high pile of documents beside my desk. "Probably the pension is good material for the defense. Schmitz was playing a lone hand on it. Suppose the directors plead his secretiveness as a defense to everything?"

"Maybe they will," she admitted. "But he's even surer than the others that he'll get off. His attorneys are boasting. Schmitz says his captors were G.I. eager beavers, and when his 'friends' come he'll be set free. Lately, he just frowns and blinks. He's

got everybody baffled. . . . You don't suppose those guys are hitting the Berlin night clubs?"

She was striding back and forth in front of my desk. Unless she could work a steam shovel by remote control, I said, she might as well relax.

"Joe, maybe if you sent me to Heidelberg again?" I shook my head. "No? Very well, but I can't get over the idea that Schmitz may be the key to the entire aggressive-war count."

She was so enthusiastic that it seemed the case couldn't fail. She understood that we were searching for more than facts. Where better to run down some of the facets of Schmitz's motives and intentions than in his home town of Heidelberg?

Old Dr. Karl Duisberg had lived in Heidelberg. Before he became Farben's first head, Duisberg was the father of industrial chemistry throughout the world. Heidelberg was the scientific well-spring that fed the first synthetic-dye and basic-chemical enterprises that grew up in the Rhine Valley about the time of the Civil War in America and during the period when Bismarck was unifying the German states. Taking an industry rural in its origin — furnishing fertilizers to the Rhineland farmer, textiles and dyes to the peasant and weaver, medicines to the druggist — Karl Duisberg had led the drive at the end of the nineteenth century for combination of several big German chemical firms, by pooling arrangements, to control market and price conditions and to protect their joint interests in the export trade. In 1904, Duisberg urged that the entire German chemical industry should be brought together in a cartel. He said: "The now existing domination of the German chemical industry over the rest of the world would then, in my opinion, be assured."

Dr. Carl Bosch, inventor of the Bosch magneto, had lived in Heidelberg all his life. Dr. Bosch could recite, in tones of austere sentimentality, from *A Child's Garden of Verses*. Bosch was also interested in the nitrates that were an essential ingredient in the manufacture of explosives. For years the principal source of nitrates had been saltpeter from Chile. At the turn of the century, German explosives manufacturers perceived the danger that in a future war Germany might be cut off from this Chilean nitrate supply. In 1913, Bosch — with a Dr. Haber, also a Heidelberg resident — invented a fixation process that yielded the synthetic nitrates without which Germany would have lost World War I a few months after it began.

"Now," said Belle. "We come to the Schmitz era in Farben. The other directors say Schmitz held his position because he was reticent, and that's a perfect explanation for their defense, because it holds up. His older associates say that even in his clerking days at Frankfurt, he wore this perplexed look, as if the simplest arithmetic was too big for his head to solve. He trusted nobody. What could be sweeter for their defense? As he got older, he confessed he was puzzled that he couldn't recall the status of this transaction and that. Perfect — for him and them, too!"

Certainly, Schmitz's power was in no wise affected by his social inferiority. The younger Duisbergs and Bosches came often to share his frugal hospitality. It was said that when business was under discussion Schmitz walked into a room ahead of them, and when anything else was being discussed he walked closely — too closely — behind them. Through his influence his nephew Max Ilgner became the guiding influence abroad, above the younger Duisbergs and Bosches.

"Joe, the trouble is that all three of them — Schmitz and his lawyer Von Knieriem and Ilgner — were picked up together. They were thrown into Prungsheim jail there in Frankfurt, and they were all in the same cell block for months. We throw them together and we say, 'O.K., boys, fix up your story.'"

The telephone rang. It was Drexel Sprecher. After hearing what he had to say, I hung up; and I didn't know how to break the news easily to her.

"They got the requisition," I said.

"What did Sprecher say?"

"He said my desk ought to be along. The boys left the requisition with the AMG."

"And —"

"They excavated but they didn't find anything."

She sat down. "Berlin Northwest 7 — the address that wasn't there." She put her head on the table. Her voice was choking. "Oh, what a beautiful day!"

"The best way to forget it is to go right ahead. There was one file found in the vault, wasn't there? Let's prepare it for introduction in court."

"Go right ahead. Snap out of it! Who cares about one file?"

"I'm sorry. I know you've been under a strain; I know everyone here has been under a strain."

In a minute she lifted her head; her fingers flew at the pile of

documents. A couple of minutes later she threw a few papers on my desk. They were still in German.

"Haven't these been translated yet?"

She was trembling. "I haven't been able to get a translator," she said. "I can read a little. But Charmatz is better at German than I."

She went over to the hotel to rest.

In a few minutes Charmatz was in my office. He stood over my shoulder. His translation was so fluent that it seemed only a few minutes before he'd finished. Actually, it was night time, and we had become so engrossed that later neither of us could remember who had switched on the light in my office.

This Northwest 7 file revealed that before Hermann Schmitz rose to the presidency, every factory which I.G. Farben operated carried the Farben name. In 1935, when they began to produce for the government, the directors became more modest.

Some of the Farben factories made products that were interchangeable for peace or war — buna rubber, synthetic gasoline, and the ethylene oxide that would yield either Prestone or poison gas.

The contracts for these interchangeable products carried the Farben name. Reading them, one would decide that their signers believed this production was only to help build up the German economy. Farben financed these factories from its own funds, with the Reich agreeing to pay off any losses.

The other factories, however, made products that had no large peacetime use, such as the explosives-intermediate hexogen. The total production was financed by the Wehrmacht. The factories were built exclusively for war; Farben insisted on this form of financing because "the production is war material and no assured peacetime market can be expected." Farben refused the use of its name. To many Germans, and to many more people in the outside world, these Farben-Wehrmacht factories were known simply by the names of the cities where they were located.

8. American Addresses

FEBRUARY, MARCH, APRIL — the first problems were simple, compared to those that followed. Our dozen lawyers, with a handful of assistants, were overwhelmed. We all felt the hazy evidence of single deeds overshadowed by a vast cloud of industrial influence billowing out far beyond sight.

The idea of punishing war plots and invasions had almost no legal foundation before World War I. Between the two World Wars, the Geneva and Paris Conventions had condemned such acts and in fact declared them generally outlawed. Until the international trial at Nurnberg, however, none of these declarations had even been tested judicially.

Proof was not easy. Conquest and its despicable code were part and parcel of every offense. We were investigating, not assault with a deadly weapon by a single defendant, but floggings of slaves who would never have been within reach of the lash if they hadn't been needed to produce for a war machine. We were studying, not a single armed robbery, but many acts of plunder in the wake of advancing armies — not a single premeditated killing, but a vast plan of aggression, all of whose evil roots could never be dug up, for they were not planted by the urge-to-power of a single man or a resentful violence that burned steadily for days only. The precedents were recent, but the motives were in the centuries; and many acts which were crimes within one nation's borders were automatically pardoned by the special immoralities of war.

Where could one place a finger on the map of Europe and conclude: This is where the last war really began? The moment when any man forms the first impulse to violence usually remains lost in the world of undiscovered psychology. Here the great barriers to discovery were social, political, and economic as well as individual. The question was — how to expose the aggressive acts for which neither the Nazi regime nor the position of these directors furnished any plausible excuse?

Drexel Sprecher and I talked it over. I appointed him administrative head of a new setup, asked him to get the facts and interpret them more quickly.

During the next few weeks I worked on many documents. I was interrupted now and then by a puff of white powder, a tickling reminder that the crumbled glory of Nurnberg, the shrine of the Nazi Party, still blew in the streets two years after the surrender. Then one day Drexel Sprecher came in to demand that we set a deadline for issuing the indictment. We had quite an argument. The staff had read hundreds of documents and sifted the facts through at least four legal theories. "Not only are the facts insufficient," I said, "but we still haven't found any theory that will tie everything together."

"It's simple enough to some Congressmen," he said. "You've seen the clippings that Public Relations has been sending over the last few days. If Congress ever gets the idea that we haven't got a case, we're through."

"We can't help that."

"Something has to be done, and there's no time like the present. We're not moving fast enough."

I sighed. He was right. Only about one-third of the existing material had been summarized. Some of the staff, Sprecher pointed out, felt we should go ahead and issue the indictment anyway and back it up later. Certainly we had before us a picture of unique business aggrandizement that could support charges of plundering. But what else? "On the aggressive-war charge," I said, "we should have at least a *prima facie* case."

"*Prima facie* case?" Sprecher was exasperated. "What is a *prima facie* case of war?"

"That is the question we shall have to answer for the court. I know it's complex. But the simplest thing we should be able to prove — their slave-labor activities — is troublesome, too. Let me show you something. This brief came to me this morning, as *proof*."

He scanned the brief the staff had prepared. Slavery was horribly depicted, no doubt of that. Here was the story of man hunts in the streets of Germany — at the motion-picture houses, at churches, and at night in private houses. Outside Germany, some of the Nazi methods had their origin in the blackest period of the African slave trade. "When in searching villages it has been necessary to burn them down," read one order to fifty offices in the Ukraine, "the whole population will be put at the disposal of the Commissioner by force. As a rule, no more children will be shot." Fritz Sauckel, Hitler's labor plenipotentiary, hanged at Nurnberg

the year before, had testified that of five million workers who came to Germany, fewer than two hundred thousand came of their own will. His orders of April 1942 were: "All the men must be fed, sheltered, and treated in such a way as to exploit them to the highest possible extent at the lowest conceivable expenditure."

In a few choice words, Sprecher cursed the Nazi regime. "Sure," I agreed. "It's horrible. But here we have Hitler and Sauckel — that's about all."

"You know we've got more than this on Farben," he insisted.

"Not much. I sent the rest of the stuff back to the central file room yesterday. You don't mind taking a run down there, do you?"

A half-hour later, when he strode into my office, he held a dozen papers, fanned out in one large hand; in the other hand he carried two files.

He spread the papers out on my desk, scanning them again, shaking his head.

"Where's the rest of the dope?"

"You tell me."

Here was evidence that before the war became widespread Farben representatives had scoured all the occupied countries to get workers. In the countries of Western Europe, Farben first asked the impressed laborer to sign a contract. Those who refused to sign were forced to come to Germany anyway. If they did not come, their ration cards would be taken away; they would be denied work in their homelands, and reprisals would be taken against members of their families. Even the more fortunate, after arriving at the Farben plants, were not free to change jobs or go home when they pleased; they had no freedom of movement. If they escaped, the Gestapo hunted them down — by an arrangement with Farben. Some who were lucky enough to escape Gestapo torture were returned to the Farben plants.

This "recruiting" was ruthlessly successful. By 1941 Farben had already assigned to its plants 10,000 slaves. In 1942, according to Farben figures, their slave employment rose to 22,000; in 1943 to 58,000; and by 1945 to well over 100,000. These figures represented only the number of slaves at any given time; there was a tremendous turnover.

By the time Fritz Sauckel took office in March 1942 to direct the Reich's slave-labor program, he was surprised to discover that I.G. Farben had already been "wildly recruiting foreign labor." As late as 1943 the Reich's Minister of Economics wrote to the

Farben offices not with commands, but seeking suggestions as to how the government might best exploit its conquered workers.

"This tells us what the institution of Farben was doing," I said. "But how is the evidence tied up with each director?"

Altogether, there wasn't much more evidence than Bernstein had turned up two years before. There had been thousands of forced laborers working in the Farben plants; yet here there wasn't a single statement from any of them to pin responsibility for their plight on any Farben director. Also puzzling was the absence of direct evidence about the Farben buna plant at the Auschwitz concentration camp. The "album of dedication" which Major Tilley had found at *Geheimrat* Schmitz's house had disappeared. Two weeks before, Drew Pearson, at my request, had advertised over the radio for its return. His appeal had got no response. I exclaimed: "Farben must have kept some records at the Auschwitz site."

"None that we know of."

"You mean to tell me there is not a word on this up at Griesheim?"

"Not a word."

I recalled again the freed workers in the Farben administration building at Frankfurt, burning records to keep warm — and, later, the wood-burning trucks moving under Ernst Struss's direction from that building to the new document center at Griesheim. I mentioned these events. Half-hopefully, I said: "You don't think there's any chance they vanished at that time?"

"I wouldn't know how to question a wood-burning truck. I'll have the next guy who goes to Frankfurt check again at Griesheim. But we can't count on anything there."

"All right, where do we make another beginning? Who besides Schmitz 'recruited' those slave workers? Who manned these Farben offices?"

Sprecher dropped a second folder on my desk and continued to pace the room.

"We have Von Schnitzler's accusations."

"Is this Von Schnitzler?" I fingered the second folder.

Sprecher nodded.

After Schmitz, Ilgner, and Von Knieriem had been picked up in Heidelberg, Baron Georg von Schnitzler was picked up in Frankfurt.

Von Schnitzler was the one Farben director whose family did not center in Heidelberg. Of the Frankfurt aristocracy, he was the nephew of Baron Dr. Walther vom Rath, a Frankfurt *Junker* and oldest head of the largest firm which was absorbed in the Farben cartel. In fact, it had been said that the cartel took its name from Baron vom Rath's firm, *Farbenwerke vorm.*

Farben meant "dyestuffs"; the Von Schnitzler-Vom Rath families were eminent in German dyestuffs. Not long after he married Lillian vom Rath, Baron von Schnitzler took special training in dyestuffs and became, in 1928, the head of Farben's powerful Dyestuffs Committee.

Though his bags were packed, Von Schnitzler denied that he was going anywhere. He denied that he was a Nazi. When he realized he would be detained anyway, he was eager to talk. The investigators liked him, for he admitted his own "mistakes" before putting the finger on any of his fellow directors. He might as well tell everything, he said; yes, he had been head of the Dyestuffs Committee, and he had been about to leave for Spain. Why Spain? Well, not long before he had bought a house in Madrid, and he and the Baroness had many good friends there. The investigators had uncovered records showing that Farben had backed the *Caudillo Franco* with huge sums, and they asked him about that. "It is not so improbable," he said, "that we should foster interior movements in foreign countries." He asked carefully: "Do you have any proofs?" They showed him a ledger of Farben "contributions" in Spain.

He felt guilty about some things. Farben's own slave-labor program, he said, was a vicious offspring of the war. Supposing his statements were competent, I.G. Farben had not just played an acquiescent role but been the leading instigator in the greatest program of slavery and mass murder in the history of the world. Apparently Hermann Schmitz's remorseful tears, when the investigators had found the album, had been shed for more than one slave factory.

Before Fritz Sauckel took over the conscription of labor; before Himmler committed the incredibly sadistic deeds that finally led him to suicide; before Hitler announced for the Jews an extermination that was to spread like an instant fever to Poland and then to the whole of Europe; before enforced labor of any kind was a Reich policy, foreigners and prisoners of war had already been enslaved, at Schmitz's direction, in the I.G. Farben plants.

"If these statements are acceptable," I commented to Sprecher, "they prove, too, that Dr. Ambros should have received the notoriety that Hitler himself got for the most infamous industrial project in history, the camp at Auschwitz. But Von Schnitzler himself — ?"

"No doubt you're thinking Von Schnitzler is not the best evidence?"

"That's right. Thousands of people were there on the site at Auschwitz, but we can't make a house-to-house canvass all over Europe to find out who our witnesses were. We've got to find those records. As for the rest of the Baron's testimony, it puts the finger on Schmitz alone."

Sprecher argued persuasively. He doubted that Schmitz had acted without the consent of the entire managing board. Von Schnitzler had been a member of the board. Not long after he had been promoted to the chairmanship over dyestuffs, Von Schnitzler became chairman of Farben's powerful Commercial Committee as well. "His knowledge of sales gave him an accurate idea of how many employees Farben was 'hiring.'"

"It's not direct enough," I said.

"If I could get him on the stand, I'd get something more direct for you."

Maybe Sprecher would, I thought. Obviously he was a shrewd cross-examiner. Before coming to Nurnberg he'd been an interrogator with the OSS; for four years before the war he had been a trial counsel for the National Labor Relations Board. "But suppose he doesn't take the stand?"

"He will. If he talked in 1945, he'll talk again."

"It's weak; it's not definite enough. Put Charmatz on it," I said.

"We can't spare Charmatz on aggressive war, I'm afraid."

"I'm going to talk to Taylor tomorrow about getting another man. Ever hear of Duke Minskoff?"

"Never met him."

"He's a lawyer with the Treasury Department. He was over here once as head of the division that investigated personal assets. He talked Emma Goering out of over a half-million dollars worth of jewels and a sizable amount of cash."

"He's the man then!"

It was after midnight before Sprecher and I finished reading for the fourth or fifth time Von Schnitzler's 1945 statements.

In 1935, as Farben was about to go in for government production, Hermann Goering had set up a new agency. The purpose was to make Germany economically independent of the outside world. To do this meant that Germany must develop a tremendous increase in raw materials — that is, to make more Farben synthetics. Goering wanted a top scientist to head the new agency, and the Farben board donated its director Carl Krauch, the eminent former professor of chemistry at the University of Heidelberg.

One day in mid-summer, according to Von Schnitzler (the invasion of Poland was still four years in the future), Carl Krauch moved his office from Frankfurt to the Berlin Northwest 7 building.

On the surface, the move seemed quite innocent. Having gone into the government, Krauch moved to where the government was. His new office was called *Vermittlungstelle Wehrmacht*, which meant "Army Liaison." Had the office operated openly, few suspicions would have been aroused, for part of Farben's business had always come from supplying armies with munitions components.

Yet if Krauch was to head a raw-materials office, publicized in glowing releases as the agency to make Germany at last self-sufficient economically, why was his remaining Farben contact military? And why was the *Vermittlungstelle Wehrmacht* a secret office whose mail came addressed simply "Berlin Northwest 7"?

Von Schnitzler offered an amazing explanation. "For twelve years," he said of the whole enterprise in which Krauch's Berlin office played a vital part, "the Nazi foreign policy and the I.G. foreign policy were largely inseparable. I also conclude that I.G. was largely responsible for Hitler's foreign policy."

Damning words! Would a court believe that, without Farben, Hitler's long-festering plans to march across Europe could never have crystallized into an official policy?

My four-month tenure was drawing to an end. If I resigned now it would mean a fatal administrative interruption. That's what I told myself, anyway. Twice within a week, Telford Taylor's office telephoned to detail the problem in dollars and cents. Unless his office got another appropriation, all pre-trial investigations like this would have to come to an end. "March is almost over. Can you give us an estimated deadline for issuing the indictment? And an estimated duration of trial, if there's to be a trial?"

"Right now," I said, "it depends on how much weight the court would attach to Von Schnitzler."

"Will you try to get the indictment out in a month?"

I promised to try.

There was a crisis in the wind that blew in several directions. Newsmen began coming to my office every afternoon. Their questions were as tensely pertinent as those asked by newsmen at the end of a day in court. One had the premature feeling that the trial was already going on, and that it would be ended before we got into the courtroom.

The newsmen reported Congressional opposition. On the House floor, Representative Dondero of Michigan had spoken savagely. How long, he wanted to know, would the American taxpayer stand for this vengeful nonsense? Joining his crusade was Representative Rankin of Mississippi. In the Senate, Taft had denounced the whole concept of "*ex post facto*" justice; the losers were being tried merely because they had lost. Taft's denunciation, unsound though it might be shown to be, spoke for the majority of the German people and many in American Military Government.

Then one day after the last snows were dried up, I called a special staff meeting and announced that we could begin drafting the accusations. At last we had enough evidence, including the Von Schnitzler admissions, to make a *prima facie* case on all counts.

"Sometime next month, we'll issue the indictment, win or lose. There are still many puzzles, but May it be. We'll put the charges together and take them apart as we go along. Send your proofs along with each paragraph."

They were still applauding when a messenger came in from the jail. He handed me an envelope. The staff stopped clapping.

It took me a few minutes to scan the contents. In two statements, Baron von Schnitzler had cast doubt on practically everything he had said in 1945. I told them the news. The Baron now said that he "had not been technically qualified" to say many of the things he'd said. As for the other admissions, he "had been in a state of intense mental depression in 1945."

Sprecher shouted above the din. Might as well face it — without Von Schnitzler, half the case would collapse. Belle Mayer thrust a finger near his face. "Let's be reasonable! Most of his admissions were not technical at all — so where does he get off with that argument? And of course he was suffering 'intense mental depression.' Did you ever know anybody to admit anything very damaging without being depressed about it?"

Were the Baron's 1945 statements voluntary? Everywhere the

basic law of the courts for accepting admissions of this sort was simple. The prosecution must show that admissions were "voluntarily made." But the definitions of "voluntary" differed according to the jurisdiction where the case was tried. And if we on the staff could not agree, we couldn't expect the court to agree.

A rubble heap on the Unter den Linden. . . . A Baron suddenly frightened by God knew what. Where did we go from here?

The Farben policy after 1935, although it stemmed from the brilliance of its wanderlust board of directors, was oriented around Berlin. Von Schnitzler had made that plain. But Professor Krauch, while agreeing that he had nursed the "raw-materials economy," insisted that his Berlin office had been just a place to hang his coat.

According to Von Schnitzler, this coat was many sizes too large for one man. But now Von Schnitzler had taken another look and agreed with the others: Nothing very important happened in Berlin.

I decided to have Max Ilgner interrogated again. Ilgner had hung his coat in Berlin ever since Farben was Farben. He had rated enough pull with the Nazis to save from death the only survivor of the Roehm plot on Hitler's life in 1933, and he'd hired this man in his office.

Yet Ilgner's "pull" was cosmopolitan. The world's greatest joiner, he had refused to join the Nazi Party in 1934 while at the same time he joined International Rotary against express orders from Goebbels. He was a queer duck, all right.

I believed that Ilgner knew more than anyone about Farben's fabulous expansion abroad. But without Von Schnitzler's testimony, could even Ilgner be brought to justice? Belle Mayer strongly believed Ilgner guilty. She might get more out of him than anyone else on the staff. In fact, she was too convinced of the case against Ilgner.

"What have we got to lose?" I argued. "You've interrogated him several times, and you should know how to throw him off balance."

"He was off balance already. After he and Schmitz and Von Knieriem were put in Prungsheim jail, they were released every day for a few hours to be interrogated over at the Reichsbank building. You'd think they'd never been in jail, the way they went out to the staff car. And Ilgner always ran out first. I can see him now walking up to the car all set to step in, when Uncle Hermann called out for him to wait. And then the three of them stood there on the sidewalk jockeying each other. Who had the right to step in

first? Hermann Schmitz, the boss? Von Knieriem, Schmitz's lawyer? Or Ilgner? Well, you guess."

"Schmitz first," I said.

"That's right. Uncle Hermann brushed Max aside and stepped in. Then Ilgner. And last came Von Knieriem, even though he had more degrees than either of them and was a Prussian aristocrat besides. People may have made fun of Ilgner, but they did it behind his back. He jumped for only two people."

"Schmitz and who else?"

"Carl Krauch. Ilgner tried to push Uncle Hermann around once in a while, but when Carl Krauch walked into Berlin Northwest 7, Max Ilgner stood at attention."

I said: "So Ilgner kowtowed to Krauch because of Krauch's position in the Reich."

"Maybe. You ask, Why didn't he join the Nazi Party until later? It's because he was too ambitious. The Party would put a crimp into his belonging to everything else. I don't know why Krauch should have cowed him."

"Maybe you can cow him. Someone has to do the job alone, because he shuts up when two interrogators are around."

Some of my notes on her report next morning are lost, but the official interrogation was saved, and as for the rest my memory is fairly accurate.

The jail sergeant had told her on the phone that she could see Ilgner any time during the evening.

"The others talk at night," the guard explained, jangling his keys as he led her and the interpreter through the damp cement corridor. "But Ilgner writes. When he has nothing else to write, he goes back and makes one big statement out of all the smaller ones he's done before." Belle laughed. She had thirty or so Ilgner statements with her.

In the center of the cell block, the guard halted. Under a dingy light, Ilgner faced the cell wall, scribbling. As the key scraped in the lock, he turned to tell the guard to go away. "Already too often I have been interrupted by this woman — and while I was writing in my own hand."

All she saw of his piglike face was the thin pouting lower lip, propped up by an apex of deep wrinkles. He nodded curtly to her. It was, he said, a gross insult for a man of his standing to be questioned by any woman.

Belle announced that she was staying anyway. She was interested in Farben's overseas representatives, she said. Hermann Schmitz had first told these men to report trends in the market; then he, Ilgner, had developed this simple practice into an intelligence service that operated every place where Farben had an office. This was the outgrowth of the seemingly purposeless gathering of statistics that had been going on in his office for years. Then the leading executives abroad had been commissioned as agents. Ilgner had given them the title *Verbindungsmänner*, and he had appointed all of them himself. Were these facts correct?

"You have the answers in my own hand." His voice was strident; each cheek showed one large dimple. "Yes, there was a plan for getting information. This was not a development from the idea of anyone else, you understand. I *cre-ated* it. I *cre-ated* the name *Verbindungsmänner*; that was entirely my creation — yes, indeed. These men were not agents in the American sense. You see, I am quite familiar with the United States, having known many people there; men of ability, I may add — many."

"Now, these agents, the *Verbindungsmänner*, picked up their intelligence in foreign countries and reported it to you?"

"Intelligence? Economic intelligence, if one chooses so to call it. I wish to make this distinction as I have already done in —"

"In your own hand, I know," Belle said. "We are referring to military intelligence."

He frowned. "If any information of that kind was gathered, I must have been out of the country at the time. You would have to ask my colleagues about that. Dr. Reithinger, perhaps."

"You mean the Dr. Reithinger you hired to head your statistical department. Well, we have evidence that he submitted regular reports to the German high command."

"Is that so? During the war, I assume you mean."

"*Before* the war, too."

"Is that so? I have heard that my colleague, Dr. Reithinger, submitted a few reports to General Thomas, but you must understand that General Thomas was not the *military* head of the high command. I wish to make the distinction that Thomas was the *economic* head of the high command. Again, I wish to distinguish between the economic, the military, and the political."

"We understand that," Belle said. "You are making the point that although Herr Thomas was a general, he was not in the Army in the military sense! But Dr. Reithinger was under you."

"Oh, yes, I had absolute authority over my Dr. Reithinger. But I did not have absolute knowledge. You see, I was out of the country six months of the year — in England, the United States, South America, Central America —"

"And the *Verbindungsmänner* sent your office reports on prices and tariffs — very well, that was economic." Belle showed him a letter written by Ilgner to the General Aniline and Film Corporation. "This, it appears, is also in your hand: 'Inform us immediately and with the utmost precision of each step taken by our chemical competitors, especially DuPont.'"

"Yes, yes, business — why deny it?"

"And your Dr. Gattineau was put in charge of the *political* department of your office — the same Gattineau you saved from execution?"

"Yes, yes. My Dr. Gattineau."

"And every change in the South and Latin American governments was reported by your agents to Gattineau."

"Of course."

"And the number of ships in South American harbors — *before* the war."

His head snapped down.

"The number and kinds of ships in South American harbors."

"*Nein.*"

"I have a list here of some of those reports. The organization of the Chilean army. A map of potential bombing targets outside Buenos Aires. You remember receiving those at Berlin Northwest 7, I assume."

"The organization of the Chilean army, perhaps — we may have had a contract to supply them. The others — *nein.*" He gave her a shrewd look. "You have the actual records?"

"They went to the German High Command."

"Naturally, anything is possible while one is away from his office. I was ill at times. My colleague Dr. Gattineau might be able to assist you on that question."

"Mr. Ilgner, here we have a letter of commendation. It was sent from German Intelligence to Berlin Northwest 7. It says that your agents, trained to collect information while they sold your products, were more valuable than the Army espionage service, because they would not be suspected, like cloak-and-dagger spies."

"I know nothing of that."

"Your agents became foreign citizens, and in many cases their

local company was not even called by a Farben name. So, if they were detected, they could confess without implicating either Farben or Germany."

He shook his head. "*Nein, nein.*"

"You learned nothing of these reports while you were abroad, and yet you were away from your office when they were received. You must have lived on the ocean."

"As I have said, we collected only business intelligence."

"All right." Belle sighed. "Here is a letter from Berlin Northwest 7. It directs your overseas salesmen to 'confess,' if necessary. It went out from your office, and you were responsible."

"I was in command, but I was not responsible for that."

"If you got only business information, what would these men have to 'confess' to?"

He said nothing.

"All right, here's your last chance to explain. Just give me straight, quick answers. What was a Bayer-aspirin salesman doing with aerial photographs of the Port of New York — in 1936?"

"I did not know of that."

"And your so-called patent company Chemnyco in New York City?" she asked. "What was in those records that your brother Rudolf destroyed before the United States government could examine them?"

He replied wearily. "Chemnyco had sent data on political economy to my colleagues' office at Northwest 7, from which inferences in regard to American armament could be made. And, apparently, one felt concerned that American authorities might establish such conclusions."

"By 'one,' you mean your brother Rudolf and yourself; is that right?"

He looked into space.

"I was not in New York at the time."

The sun was a halo around the parapet which rose above the jail's east eave. In our conference room, cigarette smoke mingled with the sunlight. Usually the staff straggled in, forming pre-meeting groups, but this morning they were all early and they were all talking together.

What was the sense of crying about it? Ilgner "owned" all the good Doctors when there was something to brag about, but when incriminating things happened, they were his "colleagues."

Sprecher shouted: "O.K., the party's over." They came to order,

some sitting on the floor, some on the desk, and a few on the one couch which had been sent down at last from AMG.

I began: "By the look on your faces, we are all agreed that we cannot do without Von Schnitzler."

Sprecher, who had done several laps around the room, stopped. "If there's no other solution to consider, let's assume we could get Von Schnitzler to repeat everything he said in 1945."

Belle was the first to jump to her feet. "It's ridiculous to waste our time thinking about it. He says now he didn't mean it. So we are going to ask him to say again that he did?"

Most of the staff agreed that we'd have to go ahead assuming the court would take Von Schnitzler's earlier testimony as it stood. But considering the background of those earlier statements with the Baron's recent weakening, Sprecher and I were both struck with the uncertainty of such a course.

Sprecher took the floor. "In my opinion, we can't risk using those early statements in their present form. Somebody's got to talk to him again." There were several dissenters, but Sprecher, who had been in Germany at the time, pictured the chaotic last days of the war. Von Schnitzler had volunteered information, but he'd also made it clear to the investigators that he was afraid to refuse. The Allied Command had passed a law making it a crime "to fail to disclose information on request" — a perfectly good law for wartime, to protect the occupying troops from ambush and sabotage. But Von Schnitzler had no intention of ambushing anyone, and this fact might be used as an argument that he had been coerced. He had suffered, the argument ran, the "duress of occupation."

The colloquy became a controversy, with Sprecher holding out against the rest of the staff.

"'Duress of occupation'? Nothing Von Schnitzler admitted had anything to do with troop tactics or sabotage."

"Maybe not. But those who were questioned at that time were not given any interpretations. They were just told: 'Talk or else.' Grabbed in the midst of the fighting, Von Schnitzler says a lot of things he later regrets."

"But he didn't even mention that law then."

"That's true, he didn't. We might even say that his main fear was his own conscience. We can say that. But the judges are not going to look at one sentence and say, 'Here the Baron was remorseful,' and then look at another and say, 'Here he was worrying about that occupation statute.' Why are the boys in the jail prepar-

ing all these statements right now emphasizing how depressed he was? They've been preparing all along to have him claim the 'duress of occupation.'"

"We must remember," Sprecher wound up his argument, "that drafters of the London Charter and Allied Control Council Law No. 10 didn't set forth any rules as to what makes an admission voluntary. The judges can lean to any viewpoint that has any support at all."

Why hadn't Sprecher brought up this argument before? Because he hadn't thought of it until so much depended on Von Schnitzler.

"If Von Schnitzler's statements were really voluntary then, he might be persuaded to repeat them again now. I'd like to test his conscience, anyway — that is, if I can be spared." Sprecher turned to me.

"We can't spare anybody. What do you want to do?"

"Let me take off for a few days to talk to him."

Sprecher's request was fantastic, yet I O.K.'d it. What kind of fool was I? The Baron had most to fear now from putting a noose around his own neck. Like the others, I was absolutely convinced that he would not talk again.

Sprecher's assignment didn't help the morale of the staff. The idea of a prosecutor going into "conference" with a potential defendant! Belle Mayer cornered me. "Do you know what some of the staff are saying?"

"Probably just what I'm telling myself. But this contention of duress is very strong. I couldn't do anything else."

"They say that with the indictment only three weeks off, you won't go through with it unless Sprech succeeds."

"We'll face the failure when it comes up," I said.

"If only we could get out the indictment a few days early! That might help."

"I've set the date and that's all there is to it. The paragraphs and supporting proof better keep rolling in here if they want to make a case."

"If we did get out the indictment, Joe, it would be so much harder for anyone to quash the case."

"Don't you think I know that?"

Several of us were in my office, feeling pretty low, when Belle rushed in waving a large orange tissue. She did a rumba around

me. "Nineteen forty-five. Nineteen forty-five. Lo, the poor Russians and the poor Swedes —"

Finally, I snatched the paper. "Where did you get this?"

"I found it in the Army files in the Farben building at Frankfurt."

It was a shipping ticket, complete with listings, for Berlin Northwest 7 documents that had been shipped from Berlin to the United States War Department in 1945. She was almost hysterical.

"Since 1945 they've been sitting in Washington. Wait till Bernstein hears about this — and the OSS — and the Department of Justice. If the Russians and the Swedes only knew!"

"Go to Alexandria first," I said. "What a fool I was not to remember! Before I came here, Mickey Marcus told me there was a warehouse full of records there. Go to Alexandria first."

"Me?"

"You've been saying you needed a rest. How long will it take you to get packed?"

"One hour."

"We'll be sweating out Von Schnitzler here. You do the best you can over there."

In 1945, Von Schnitzler had been more afraid of himself than anything else, Sprecher felt. Most of the Baron's statements read like ramblings of conscience, not guided disclosures. He had even hinted at Farben blame for some things where he wasn't too sure of the facts.

"These statements are loose, some of them full of hearsay, but to the ordinary reader amazingly believable," Sprecher said. "Don't worry; he'll confirm everything before I get through."

"It just doesn't make sense that he qualified those statements," I said. "What stopped him from taking it all back a long time ago?"

"For two years, Joe, he had the courage to stick to his guns, then suddenly —" Sprecher frowned. "Just play along with me, will you?"

"I'll play along for a few days."

But I was not happy about it, and my uneasiness concerned the interrogator as much as Von Schnitzler. Before this time, one might often observe Drexel Sprecher striding up the jail walk like a shavetail going to review his troops. In this simple but seemingly hopeless assignment, I expected him to slow down a bit, but not to saunter, as he did, to the jail every day. He was not the grass-chewing type.

Within a few days, Von Schnitzler had confirmed about one-fourth of his 1945 testimony. I thought we were getting somewhere. Sprecher didn't agree.

"If he was depressed in 1945, and if that was 'duress,' it may still be duress, because right now he is the most depressed fellow I ever saw. Do you know what he said to me today? 'Mr. Sprecher, you are not the first American I have met who understood the soul, but you are the first who has not bragged about it.' But there is still something holding him back and I am going to find out what it is."

"Someone must have really worked on him," I said. "Maybe if we take another look at his statements, we can get a lead."

We studied the statements again, and in fifteen minutes we had an answer.

We were looking for the man who had belittled the Baron's knowledge. The indications pointed to a technical man — else why would Von Schnitzler have said that he "wasn't technically qualified"?

We looked at the dates and places of incarceration, and the dates of all Von Schnitzler's 1945 statements, and the facts led straight to one man — Dr. Fritz ter Meer, the great developer of the buna-rubber process.

In 1945 Von Schnitzler had said absolutely nothing significant while Dr. ter Meer was around. Whenever Ter Meer landed in the same jail with him, he stopped talking. Ter Meer was now at Dachau, and he was slated to come back to Nurnberg for questioning within a few days.

"If we're right about this," Sprecher said, "Von Schnitzler knows Ter Meer is coming, and he doesn't relish seeing him."

"We could arrange it so he won't have to," I said.

The next afternoon Sprecher walked briskly into the office.

"We had it figured to a T," he said. "He almost cried. It seems Ter Meer was working on him for months, whenever they were in the same jail. Ter Meer kept hammering away at the idea that Von Schnitzler was not qualified to speak for Farben policy because he was not a true, all-round scientist. He humiliated Von Schnitzler by referring to him in front of the others as 'that salesman.' Brother, Von Schnitzler was mad today."

"How did you loosen him up?"

"I began by asking him if he had heard from Dr. ter Meer. He

wanted to know why I asked that — said it wasn't easy to send letters from one jail to another. I said we liked to have all the directors together sometimes so that they could plan their case until they got permanent counsel, and I mentioned casually that Ter Meer would be coming back here soon anyway, unless there was some reason why he should stay at Dachau for another week or so. That did it. He said he didn't know whether he could revalidate everything he had said in 1945, but he wouldn't be able to co-operate at all if we brought Ter Meer to plague him. He said that Dr. ter Meer was the best all-round scientist Farben had, but that he had no noble rank whatever and he didn't know any more about *dyestuffs* than he, the Baron von Schnitzler, knew. Then he got sarcastic. Ter Meer, he said, knew everything except how to get them out of jail."

"Great! How about the statements?"

"Here. He worked along well with me today. We can hold Ter Meer there in Dachau. But the way it's going, there'll still be some exceptions to the 1945 statements. When I get through with this interrogation, I think we ought to send Von Schnitzler someplace where he can be alone and think it over."

On the day Ter Meer was put on the train for Nurnberg, Sprecher released Von Schnitzler from the Nurnberg jail and put him on the train for Munich, the rail point nearest Dachau. Ter Meer and Von Schnitzler crossed in transit, so to speak. Von Schnitzler was told merely to "rest and think it over."

A week later Von Schnitzler was back in the Nurnberg jail. He requested of another lawyer an immediate interview with Herr Sprecher. "What's it all about?" the other lawyer asked, but the Baron replied: "I will speak to no one else. It's personal."

I got hold of Sprecher, and he hurried over to the jail. The next hour was my most eventful hour since coming to Nurnberg.

First, there was the call from Washington. Although the line was not busy, there was a cacophony of excited voices as if tests were being made on Bell's first telephone. Too bad, I thought, that Farben's technical men hadn't gotten into this field! I hung up to wait for a better connection.

The call finally came through. Belle was reporting. Vaguely I got the idea that she was in the process of setting up another United States government at Alexandria. I yelled back: She might at least have picked Washington or Philadelphia. What was the mat-

ter with the connection? There, that was better! The first batch of documents had been pulled from the Alexandria warehouse, by a crew which would soon be known as "Mayer's WPA." She enthusiastically described the operation. One guy about to leave the government had volunteered for a few days; she'd run across a few other employees whose duty orders were sufficiently abstruse for her to interpret them onto the job. "Can you hear me?" she shouted.

"I can hear you, although I don't understand why you should have much trouble. Mickey Marcus will help you there, you know that. What have you found?"

"Nothing is translated yet. I'll just report the trend. *Vermittlungstelle W.* — got that?"

"I got it."

"We found hundreds — repeat hundreds — of orders from the Wehrmacht to Farben's *V.W.* — got that?"

"Yes. How about *V.W.* suggestions to the Wehrmacht? Did you find any of those?"

"Not yet. But we haven't scratched the surface."

"Did you get any dope on the judges?"

She reported that a Judge Curtis Shake of Vincennes, Indiana, was coming to Nurnberg. He had been a chief justice of the Indiana supreme court and chairman of one of Indiana's Democratic conventions.

As she finished telling me about Judge Shake and hung up Sprecher rushed in. "I am quoting the Baron," Sprech shouted. "*Mr. Sprecher, I am convinced that the first statements I made are correct. I have thought it over, and I am sure that, without exception, they are the whole truth.*"

After examining Von Schnitzler's latest utterances, I asked General Taylor's office to release the indictment. Count 1 charged the preparation and waging of aggressive war; Count 2 the plunder and spoliation of the industries and economies of other countries; and Count 3 the enslavement, mistreatment, and murder of human beings, including medical experimentations upon enslaved persons.

A few days later, Belle Mayer returned. There was feverish digging in all the Farben rooms of the Palace. Since the indictment had been issued, more newsmen than ever were hanging around waiting for a story. The shipment from Alexandria had arrived, but there would be no story for some time; the documents had to

be indexed, analyzed, and translated before they could be used. But two other stories did break, one indirectly from Secretary of War Patterson, and the other from a Congressman who was not exactly an admirer of Secretary Patterson.

The Secretary relayed to us this telegram he had received from Standard Oil Company (New Jersey):

DURING THE ENTIRE PERIOD OF OUR BUSINESS CONTACTS, WE HAD NO INKLING OF FARBEN'S CONNIVING PART IN HITLER'S BRUTAL POLICIES. WE OFFER ANY HELP WE CAN GIVE TO SEE THAT COMPLETE TRUTH IS BROUGHT TO LIGHT, AND THAT RIGID JUSTICE IS DONE.

F. W. ABRAMS, CHAIRMAN OF BOARD

Then, a few days before we wound up the investigation, Judge Shake came to Germany. He was designated by General Clay to preside over the Farben Tribunal, which would have two other regular judges and one alternate. His arrival made me nervous. The Bernstein investigators, in their haste to collect information for other purposes, had frequently put data in a form that was not technically admissible in a trial. Some of the statements were unsworn. Some of the most convincing testimony showing Farben's rearmament activities lacked dates. In one form or another about five hundred documents needed fixing.

The staff had an angry debate.

"You want guarantees! Our London Charter doesn't say all statements have to be sworn. You want dates! Everybody knows how far back this thing goes. Without the Haber-Bosch process, World War I would have ended in 1915 — there's your answer whose side they were on!"

"Yes, but we are not trying 1915, or Haber and Bosch. We are not even trying World War II. We are trying those men in the jail over there."

"All right, take those men! They produced Germany right into *this* war, and without them, Germany could never have gone to war."

"Without this and without that — that's not proof. We must show their positive intentions. Probably these judges will bend over backward to apply the principles of Anglo-American law. We have to have those dates clear, and we have to have the unsworn statements sworn to, wherever possible, even if it delays our going to trial."

Finally the advocates of a quicker trial date began to yield on this point. When we started to discuss the next point — being prepared to produce in open court those people who had given us affidavits — the battle raged again.

It would be a gigantic task, of course, to produce in open court the hundreds of people who had given us statements. In fact, the drafters of Allied Control Council Law No. 10 had foreseen this dilemma, and had provided that "affidavits" were admissible as evidence. But the American Constitution provided that the accused must be confronted by his accuser. I felt that we must be prepared to produce at least those witnesses whose affidavits were objected to by the defense. That meant we would have to start checking on the availability of witnesses all over Europe.

"It can't be helped," I said.

Belle Mayer blew up. "We haven't time to do both jobs. I can understand our preparing to get some of the witnesses, but these documents are signed and witnessed. Now just because they didn't say 'I swear' — we'll let the whole world crumble while we play legal tiddlywinks. It would be different if these papers were deliberately falsified."

"I know, I know."

"Time, time, time!" Each repetition of the word sounded bruised. "You're hopeless. Why don't you go ahead and defend them yourself?"

I was too perturbed to answer.

"I'm sorry," she said. "Just consider what I said, not the way I said it."

She was tired; she hadn't slept much for a long time.

She was up early the next morning, organizing field trips to Berlin, Frankfurt, and Paris. Her jeep left Nurnberg with five people and two large suitcases bulging with documents. All of them would be traveling on nerve — getting clarifying statements, signatures, and oaths.

I made my usual morning visit to the snack bar to get a cup of coffee and pick up the *Stars and Stripes*. The lead story prolonged my recess. It was a blast by Representative George Dondero of Michigan against Secretary of War Patterson for his "failure to ferret out 'Communist sympathizers'" who had "infiltrated into key Army posts."

Representative Dondero had made this charge on the floor of

the House. He had named ten of these "sympathizers." My name was among them. The story recited my present position and quoted Dondero as saying that I was a "known left-winger from the Treasury Department who had been a close student of the Communist Party line."

During the next days I was called on often to answer this charge. There was quite a flurry at the Grand Hotel, center of American community life in Nurnberg. One day Judge Shake, a medium-built man with a look of honest curiosity, greeted me from his chair in the lobby. He was reading the *Stars and Stripes*. It was ridiculous — but I felt ill at ease. Four of the ten people named I didn't know at all. Suppose one of them was a Communist? I shook off the question.

The obvious cause of the attack didn't occur to me at first. My statement to the press did point out that five of the men named had worked at one time or another on War Department investigations of I.G. Farbenindustrie. I knew them, of course. I challenged Dondero to repeat his charge off the floor of Congress where he would not be immune from a libel suit. And although this was some months before one could conclude that absolutely groundless charges in Congress always went hand-in-hand with cowardice in the accuser, I added that Representative Dondero was "apparently the type of man who, so far from deserving a seat in the United States Congress, should not be trusted with official responsibility of any kind." That wasn't the end of it. There were calls from Washington and Berlin, requesting further denials. How can you add to a denial?

Then the *Congressional Record* arrived to solve the mystery. Dondero's speech before the House had not begun with the Communist labels, but rather with a blast against those "who had been trying to blacken the name of I.G. Farben." The newspapers had recently reported that the Farben trial staff had been investigating alleged stockpiles of magnesium which the Dow Chemical Company had shipped to Farben when our defense program was critically short of magnesium. Was it more than a coincidence that Dow Chemical was located in Dondero's district? How often had he lobbied in their interest? I determined to forget the incident, telling myself it should have no influence on the court.

No one slept much during the last few days before the trial. The last of the corrected documents were brought in. General Taylor went to Paris; appearing before the full French cabinet,

he demanded for the last time that the French give up Dr. Wurster and Dr. Ambros. After a long debate, the cabinet voted their extradition from the Farben plant at Ludwigshafen, in the French zone.

PART THREE

A NORMAL BUSINESS?

9. *"They Will Not Dare Go on With This"*

ONLY A CLUSTER of German citizens come today. They are quiet. The big crowd comes from the German outposts of all the "Allied" countries. A special train is sent down from Berlin, but neither General Clay nor General Draper comes with the party.

Today the Farben directors are charged with violating international law; yet few of the spectators milling in the long hallway that leads to the courtroom speak of law. It is a strange crowd. Listening to the talk, you would say that everyone is in the entourage of a potentate named "Farben." Those who are not experts become so by the time the judges shoulder their way to the courtroom. Only one person answers neatly the question: What is this trial all about?

"Anything that is 'all about' is about a lot of things. To put it simply, this is about a kind of war people never heard of before."

Two military policemen stand at attention. The courtroom doors swing open.

Today begins the most momentous trial in modern history; yet no more than three hundred people can be seated in the audience. The prosecutor's stand faces the empty witness box. The prosecution hasn't much to do this morning.

As the judges pace slowly to the bench, everyone rises.

THE MARSHAL: The Honorable, the Judges, Military Tribunal No. 6 is now in session. God save the United States of America and this Honorable Tribunal. There will be order in the courtroom.

THE PRESIDENT: Military Tribunal No. 6 will come to order. The Tribunal will now proceed with the arraignment of the defendants. The secretary-general will now call the defendants in the dock, one by one, for arraignment.

THE SECRETARY-GENERAL: Carl Krauch.

An attendant marches before the dock, carrying a pole with a microphone on its end. He stops in front of the first defendant in the first row. A short man dressed in a natty gray suit, matching perfectly his cool eyes, sits looking straight ahead, neither at the microphone nor at the portly gentleman who gets up from the defense table and stands for a moment at his end of the dock.

Mr. President, before this question is put to the defendants, I should like to have your permission, on behalf of all defense counsel and all defendants, to make a brief declaration.

THE PRESIDENT: Yes.

Your Honor, my name is Boettcher, Dr. Conrad Boettcher, attorney-at-law and defense counsel for the defendant Professor Dr. Krauch. At this point I am speaking on behalf of all defense counsel present in this room. At this point, we must deal with two principal objections against these proceedings. The defense begs this Tribunal to realize that for the first time in history, the heads of a great international industrial enterprise are under indictment.

The sixty-odd defense counsel half rise. People in the gallery crane to see what is going on in the central quadrangle which will corral the stamping feet, the snorting of opposing counsel. As Boettcher goes on, you sense the sleeve of a single black gown trailing gracefully toward the judges, a single voice ringing with such perfect-pitched righteousness that even the best informed must remind himself of the facts. Though each defendant has had official counsel for four months, Dr. Boettcher contends they need a postponement. Though half the defendants are wealthy men and the United States of America has been paying for the defense, Dr. Boettcher contends the defendants need more money for more counsel, for travel expenses all over the world. Though the defendants controlled the gasoline supply of half a continent, Dr. Boettcher argues that the United States has not furnished enough money for gasoline. Only his plea that "the defendants have not had time to prepare their cases" makes sense. There's some truth in that, but only because there would never be enough time. Still, there has been time to be fair.

Dr. Boettcher would go on for a week if he were not stopped. The Presiding Judge is impatient, but the gist must be heard.

DR. BOETTCHER: The accusations raised are in every respect appalling. There can be no doubt whatever that this trial is destined to write history and to clear up the question how, in the future, leading industrialists should conduct themselves in the event of an international

conflagration. The defense feels that they may not assume that the American democracy would depart from the great ideal principles which it has represented the world over and for which it is attempting to gain the support of the German people.

The German people — the prosecution leaps up to object to the defense's dragging in that issue. But Baron von Schnitzler's counsel cleverly agrees: The real issue is "the German regime"—already "hanged" here in the persons of Rosenberg, Streicher, and others in the Goering trial — to which the defendants have been linked by prosecution propaganda.

Finally, the wrangle is halted. The audience in the gallery settles down. Above the level of the fury and bias, the defendants' dock faces the bench. By the strange convention of juridical architecture, height stands for both despair and dispassionate judgment.

THE PRESIDENT: Carl Krauch?

KRAUCH: Yes, sir. [*The microphone swings before his sallow face. While his counsel has orated, he has shifted uncomfortably, looking down the first row at his colleagues, who have not returned his glance. As time goes on, we shall realize they mean to show they do not know the Professor very well; but at this moment the picture is like that of an officer dressing-up a line of troops.*]

THE PRESIDENT: Was the indictment in the German language served upon you at least thirty days ago?

KRAUCH: Yes.

THE PRESIDENT: Have you had an opportunity to read the indictment?

KRAUCH: Yes.

THE PRESIDENT: Defendant Carl Krauch, how do you plead to this indictment, guilty or not guilty?

KRAUCH: Not guilty.

Nothing of note has happened yet, but all save two defendants have been scribbling on the mimeographed copies of the indictments in their laps. The exceptions are Dr. ter Meer and Dr. Schmitz. The microphone does not alter Schmitz's stolid gaze.

THE PRESIDENT: Defendant Hermann Schmitz, have you counsel?

SCHMITZ: Yes. . . .

THE PRESIDENT: Have you read the indictment?

SCHMITZ: Yes.

THE PRESIDENT: Defendant Hermann Schmitz, how do you plead to this indictment, guilty or not guilty?

The courtroom is hushed. As late as yesterday, Schmitz is reported to have predicted again: "They will not dare go on with

this. Our American friends will come." Is this what he thinks now in the embarrassing silence? His bull neck flushes as the question is repeated: "How do you plead to this indictment, guilty or not guilty?"

SCHMITZ: Not under any circumstances guilty.

Then the microphone goes on down the first row, and back to the second row, and the defendants, as if tired of the show, plead quickly: "Not guilty."

Brigadier General Telford Taylor makes the preliminary address for the prosecution. Succeeding Justice Jackson as chief of all war-crimes activities here, he has found himself without any real support from any of the other "Allied" governments that established the London Charter whence he draws his authority. America will have to go it alone, and the American program in Europe has been sparked almost singlehanded by General Taylor. Since the trial of Goering and his henchmen, Congressional appropriations have been small and grudging. Taylor was one of the few men who would have stuck to the job.

Rising to address the court, he makes a fine impression. He is good-looking in the tradition of leisurely American young men. But his voice carries the authority of scholarship that is not a matter of age. Before he finishes the first sentence, you know that he intends his remarks to carry their own load. His voice is quiet, urgent:

May it please the Tribunal, the indictment accuses these men of major responsibility for visiting upon mankind the most searing and catastrophic war in modern history. It accuses them of wholesale enslavement, plunder and murder. These are terrible charges; no man should underwrite them frivolously or vengefully. There is no laughter in this case, neither is there any hate.

We have been told from the Sermon on the Mount to judge not, lest we be judged. This solemn injunction reminds the individual of his own frailty and fallibility. The Judge must not judge in his own name or uninstructed; he judges under laws derived from revered scriptures and the wisdom of the ages—and declared or commonly accepted as binding by the community, large or small, whose agent and servant he is. That is why the judicial robe is a garment of humility, not of pride.

But this mandate is not for judges only; it is universal. It warns man not to set himself up as better than his fellows, and not to impose his personal notions of good and evil on his neighbors. From this

mandate—"Judge not lest ye be judged"—are derived all the great proclamations of human dignity in modern times, and on it are bottomed the very principles of law under which these defendants are to be tried. . . .

The crimes with which these men are charged were not committed in rage, or under the stress of sudden temptation. What these men did was done with the utmost deliberation and would, I venture to surmise, be repeated if the opportunity should recur. In their . . . supremely criminal adventure, the defendants were eager and leading participants. They joined in stamping out the flame of liberty. They were the warp and woof of the dark mantle of death that settled over Europe. . . .

The defendants will, no doubt, tell us that they were merely overzealous, and perhaps misguided, patriots. We will hear it said all they planned to do was what any patriotic businessmen would have done under similar circumstances. . . . As for the carnage of war, and the slaughter of innocents, they will tell us, those were the regrettable deeds of Hitler and the Nazis, to whose dictatorship they, too, were subject. . . .

I do not want to burden the Tribunal with tedious exposition, but we are concerned here with men who occupied key positions in a mammoth and intricate industrial establishment. In order to understand this case, it will be necessary to gain a general knowledge of the history and structure of the Farben empire and how the defendants fitted into the organization. . . .

These men were the master builders of the Wehrmacht. They knew (and very few others knew) every detail of the intricate, enormous engine of warfare, and they watched its growth with the pride of architects. These are the men who made the war possible and they did it because they wanted to conquer.

That was the crux. Did these men in fact know where their deeds would lead; and, if so, could we prove it legally? Taylor's voice faltered once as he ranged over the indictment with mounting persuasiveness:

The face of this continent is hideously scarred and its voice is a bitter snarl. The first half of this century has been a black era; most of its years have been years of war, or of open menace, or of painful aftermath.

Shall it be said, then, that all of us, including these defendants, are but the children of a poisoned span and does the wrack and torment of these times defy apportionment? It is easy thus to settle back with a philosophic shrug or a weary sigh. God gave us this earth to be cultivated as a garden, and not to be turned into a stinking pile of rubble and refuse. If the times be out of joint, that is not to be accepted as a divine scourge or the working of an inscrutable fate which men are powerless to affect.

Mr. DuBois will continue with the statement of his case, Your Honor.

Mine was a technical résumé of what we hoped to prove. When it was finished, I got one glance at the staff before the press crowded along the rail. Belle Mayer was looking into space; then she looked over at Sprecher, who was watching her. Tears were rolling down her face. They smiled at each other.

"I didn't think this day would ever come," she said.

"I could shed a few tears myself," he said, "but I never carry a handkerchief."

The judges had listened attentively, the press were enthusiastic in their promises of "favorable coverage"; but the things we had yet to prove seemed more real to me than anything spoken that afternoon.

Going out of the Palace, I felt a sudden relief. It was about two and a half years after Germany had surrendered, and about two years since Japan had surrendered, and I was sure this trial would make a strong contribution to eventual peace.

10. "Simply a Big Business Concern"

A TRIAL THAT MIGHT HELP put an end to war someday shouldn't have degenerated into a quarrel about a man-of-title who had scrubbed floors. Nor should floor-scrubbing have yielded the limelight, within two weeks, to a bitter argument whether I.G. Farbenindustrie was "entirely free of government planning."

From the very beginning the prosecution had trouble convincing the court that our method of proof was appropriate.

On a stand facing the court, we had set up panoramic charts of the Farben empire, showing banking houses from Bern to Bombay, production facilities on five continents.

The Tribunal had asked: "What is the purpose of beginning in this general fashion?" We explained that world aggression could hardly be proved before it was shown that the defendants, with their network of continental and transoceanic affiliations, commanded tremendous power abroad. The Farben structure at home must be understood, too, or the proof would be halted for days while we explained, for each man and each crime, where he went to work and what his employees produced.

"All right," the Tribunal said. "We will reserve decision. Go ahead, but next time explain the purpose."

We went ahead. In two cities, Berlin and Frankfurt, had sat the ruling committees of the Farben empire. The purpose? One defendant might initiate a program, but all of the major programs had gone to committees. Take the contract by which Farben in 1938 had got from Ethyl Export Corporation of the United States, under false representations, five hundred tons of lead for aviation gasoline. One of the defendants drafted this contract, but we would show that the others knew of it, too, because they had attended a committee meeting where the deal was approved.

The Tribunal did not like this method. The defense counsel, commendably partisan, didn't get the point, either. Why *must* we begin with the over-all organization of the Farben firm? Because, we replied, we had charged that many of the crimes were committed *through* the organization. Unless the court first found a trail through the forest of companies, "syndicates," cartels, and committees, the crimes would be erased like footprints by a heavy rain. Farben had production and sales agreements in fifty countries in Europe, Africa, Asia, and the Western Hemisphere. These agreements were administered under "groupings" in which each of the defendants played several roles. It took patience to study each document as it was noted by the secretary-general, then described and translated by the German and English interpreters. What, asked the court, *what* is the purpose?

The staff got together during a recess. This was only the third day, and already the court was impatient. We had planned to show first the defendants' places in the organization, then go on to reconstruct their acts in official relationship to each other. Now we had to change the plan. Could we pick out a bad deed here and there, hoping that these biographical bits of intrigue would throw up the shadow of an organized scheme to make war? No, if we must begin with individuals, we would introduce the defendant who had cast suspicion on all of them — Georg von Schnitzler.

Von Schnitzler frowned in the dock as the defense lawyers tried to keep out of evidence all his statements, including his talks with Sprecher. The argument was that Von Schnitzler had been "disordered" since 1945, when circumstances had coerced him into testifying, in violation of the Fifth Amendment of the United States Constitution. The advocates leaped to their feet to deliver long-winded addresses in which the Fifth Amendment got mixed up with the First, Second, Third, and Fourth. When these grandilo-

quent objections had stalled all progress, the prosecution charged the defense with "trying to starve the case to death."

The court took a firm hand, telling the defense that if they wanted Von Schnitzler's statements ruled out, they would have to prove he'd been forced to testify against his will.

We were in for a bizarre surprise. Expecting a lurid story of the Baron's cracking because he had been long imprisoned by a conquering army, instead we heard it stressed that he, a Baron, had been treated like an "ordinary" criminal. He had scrubbed floors "until his knees bled." These, and similar indignities which no man of his rank should have to suffer, had damaged his memory!

As evidence of coercion, this would have been laughable had not the fate of the other directors depended on it. But the laugh was on the prosecution anyway.

We put in our answer. Yes, in the years of his incarceration, the Baron had been assigned to scrubbing floors. In his own words, "once or twice" he had "scraped his knee." Fortunately for him, however, military discipline was exercised more among his colleagues than by his jailers. When one of his colleagues joined him in jail — a scientist, doctor in his own right, who happened to have been Von Schnitzler's inferior on two committees — Von Schnitzler had graduated himself to *mopping* the floors and ordered his colleague to do the scrubbing.

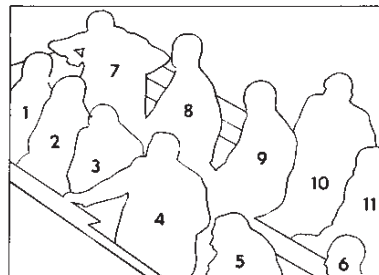
Far from being "disordered," often the Baron had taken his predicament with a grain of salt. Assigned to clean windows, he had said to his jailers: "I have not the slightest objection to this menial task. But it is ridiculous that I am furnished poor American products when I.G. Farben manufactures the greatest window-cleaning chemicals in the world." The prosecution climaxed its answer with Von Schnitzler's voluntary confirmation to Sprecher: "The relationship between the investigators and me in Frankfurt in 1945 was very free and open and very cordial."

The Tribunal did not resolve the issue. Presiding Judge Shake announced that the judges would "study the statements" and "consider what they were worth." Probably, he added, the statements wouldn't be worth much against Von Schnitzler's colleagues unless he himself took the stand to be questioned by their lawyers. Would Von Schnitzler go through the ordeal of repeating his story, this time in open court, where the lives of the others might hang on his words?

With Von Schnitzler's confessions of guilt considered of doubtful



ELEVEN PRINCIPAL DEFENDANTS IN I. G. FARBEN TRIAL



1. Carl Krauch
2. Hermann Schmitz
3. Georg von Schnitzler
4. Fritz Gajewski
5. Heinrich Horlein
6. August von Knieriem
7. Paul Haefliger
8. Max Ilgner
9. Friedrich Jaehne
10. Hans Kuehne
11. Karl Lautenschlaeger



The 23 defendants in the I. G. Farben Trial (the 24th defendant having been "severed" because of bad health) listen to the sentence being pronounced by the Tribunal on Carl Krauch.



The Judges of Military Tribunal No. 6 hearing the evidence in the I. G. Farben trial. From left to right: Judge James Morris, Judge Curtis G. Shake, Judge Paul M. Hebert, and Alternate Judge Clarence F. Merrell.



The Prosecution listens to Judge Shake reading the final judgment in the Farben case. Seated counter clockwise around the main table are: General Telford Taylor, Drexel Sprecher, Randolph Newman, Mary Kaufman, Erna Uiberall, Otto Heilbrunn, Virgil van Street, Emmanuel (Duke) Minskoff, Morris Amchan and the author. Listening at the adjoining table (front) is Benjamin Ferencz, Deputy to Genral Taylor.



Prosecution Staff Conference. From left to right are: Jan Charmatz, Belle Mayer, the author, Drexel Sprecher and Morris Amchan.



A picture taken in the early 1030's showing from left to right: Dr. Carl Bosch, second head of Farben (succeeding Duisberg and preceding Hermann Schmitz); Defendant Hermann Schmitz; an unidentified person and Defendant Georg von Schnitzler.



A typical court-room scene. Nathan Elias of New York City, the Prosecution's expert witness on chemical production, is testifying. Heinrich Buete-fisch, world's greatest synthetic fuel scientist, is cross examining Elias. On the walls are maps showing I. G. Farben's plants within Germany.

value as against his colleagues, we were deprived of the most dramatic, individual foundation on which to build our case of "aggressive war." Farben, he had said, had started the Nazi rearmament, knowing it was leading to war. He had given facts to support this conclusion.

We would not know for many months the exact effect of this announcement. I believed myself that the court acted as it did in the hope that an indecisive "ruling" would get the case off to a peaceful start.

If this was the court's intention, it failed. The Baron's knees became a *cause célèbre*. For several days the proceedings continued like a poor melodrama, with the audience shouting down the principals. There appeared in the American zone a lawyer from New York who charged that Von Schnitzler had been deprived of his constitutional rights. So quickly did news of the Baron's bruises cross the ocean that before his neurotic champion could be rejected even by the Baron himself, the judges and the prosecution received anonymous mail from the United States. My own mail including scrawlings like this: "Murder, murder, that's all we hear." "It's time to quit, you guys!" "With all the people the cat is out of the bag. You people lost all Prestige in the U.S.A."

A Chicago *Tribune* editorial was enclosed with another letter I received. Andrei Vishinsky had called upon the United Nations to adopt a criminal statute that would restrict freedom of speech and of the press, and the *Tribune* went on to say that what we were doing would make an excellent precedent for Vishinsky:

Mr. Vishinsky's proposal to repeal the First Amendment may find support in some quarters in this country. The Nurnberg trial crowd . . . should welcome it. The Vishinsky proposal would provide a sort of legislative endorsement . . . of the indictment under which the Nazi leaders were judicially murdered. With these exceptions, it seems most improbable that the Soviet Revolution will be taken seriously outside Russia.

I was more amused than disturbed. The First Amendment! A better example of freedom of the press could hardly be imagined than this description of legal proceedings as murder, and these suggestions that somehow the Nurnberg trials abridged freedom of speech and of the press. Were such crackpot notions to be taken seriously? We did not think so.

The news reports as a whole, although not always accurate, gave a more readable impression of what we were trying to prove than the stacks of documents going into evidence. And the popular furor created by one series of news stories seemed to be reflected by the Tribunal.

I. G. Farben had been almost exclusively responsible for America's frightening shortages of vital Army supplies after our country went to war with Japan. By the time of Pearl Harbor, for example, Farben had succeeded in gathering, through its United States connections, 80 per cent of all magnesium production in the Western Hemisphere.

Only after Pearl Harbor did the United States government discover how Farben had also stopped the flow of crucial war materials from America to its lend-lease allies. Magnesium was the best example. The arrangement between Farben, the Aluminum Company of America, and the Dow Chemical Company not only had limited production within the United States but had fixed it so that all quantity exports from the United States went only to Germany. Thus Great Britain and the rest of Europe became completely dependent on Farben for magnesium.

Then there was prime ammunition. Even as late as two years after the war started, the British Purchasing Commission tried to buy tetrazene prime ammunition in the United States, and failed because sale was prohibited by an arrangement made by a Farben subsidiary.

According to our evidence, through Standard Oil of New Jersey Farben withheld information that would have made possible the production of synthetic gasoline in the United States. We also introduced evidence designed to show that, through various conferences and agreements between Jersey Standard and Farben, Farben prevented the production of buna rubber in the United States until 1942. On December 7, 1941, the United States found itself at war with no adequate rubber supply. When Singapore, Java, and Sumatra fell to the Japanese a few weeks later, we were in serious danger of being knocked out of the war simply because we had no adequate program for making synthetic rubber.

All these facts about United States shortages made interesting news. But most of the news stories did not distinguish between American companies whose deals with Farben contributed unwittingly to the Farben power and those firms that had a *knowing* connection. And most newspapers featured the American com-

panies more than Farben. Although the purpose of our evidence was to prove crimes against the Farben defendants, and not to implicate American companies, some of these companies were in effect tried unfairly by some newspapers.

Altogether, the evidence linked fifty-three American companies, directly or indirectly, to I.G. Farben. In the aggregate all these companies may have been "used" by Farben, but there was no proof that the activities of most of them amounted to sabotage in wartime or even a profitable neutrality before war began.

Dupont de Nemours was an example of a company whose over-all dealings abroad showed up in a very favorable light. DuPont had owned 5 per cent of the Farben common stock, but had got rid of it long enough before the war to suggest that patriotism may have caused them to sell. In 1934, DuPont refused to grant Von Schnitzler a license to use a nitrogen process. The refusal was partly explained by the advice from DuPont's Paris representative in 1932 that the Nazis had begun to carry American machine guns, and that weapons were being regularly bootlegged into Germany from America. In March 1932, another DuPont man wrote from Germany:

It is a matter of common knowledge in Germany that I. G. Farben is financing Hitler. There seems to be no doubt whatever that at least Dr. Schmitz is personally a large contributor to the Nazi Party.

And only a few months later, DuPont's London representative reported:

Dr. Bosch [who had retired as president, yielding to Schmitz] spends practically all his time between his dwelling in Heidelberg and the government offices in Berlin, leaving little, if any, time for the affairs of I. G. Farbenindustrie.

Still, the newsmen continued to play up "American business." In 1942 a Senate committee had investigated these United States military shortages. Its chairman, Senator Harry Truman, referring to one of the companies, had said: "I still think this is treason." One journal now quoted this statement, perhaps properly from its viewpoint. Then at the Grand Hotel, excitement centered on the blanket denial of the fifty-three American firms rather than upon the Farben scheming that had victimized most of them.

"American companies mentioned in the indictment," said the

Associated Press, "have denied that any agreement they had with I.G. Farbenindustrie weakened the United States as an arsenal."

Was it lobby-chatter about this item, reaching Judge James Morris' ears, which frustrated our effort to show the sources of the defendants' power?

One couldn't be sure. His gray head half a plane above Judge Shake and a full plane above the other two judges (who bent studiously over the bench), Judge Morris' attention wandered from one dark-paneled wall to the other. Still, I had seen judges who took in evidence while they gave every appearance of being asleep. When on rare occasions the Tribunal had paused to look over a document in open court, Morris finished before the others; then his head would snap up and he would look for a moment as if someone had just seen him sit on a cocklebur. A justice of the supreme court of North Dakota, Morris was a judge's judge in many ways, used to reading summaries prepared by assistants, and probably several years removed from the slow exasperating drama of trials at this level.

Sprecher introduced a document. It was a directive from Hermann Schmitz requiring Von Schnitzler to report to the managing board all "basic questions" discussed in the commercial committee. From Judge Morris' tone, one imagined that the cocklebur regretted its position.

JUDGE MORRIS: Mr. Prosecutor, this organization, so far as record shows here, was simply a big chemical, commercial and business concern, the like of which there are many throughout the world. Speaking for myself only, I am at a complete loss to comprehend where documents of this kind are of the slightest materiality to the charges. This trial is being slowed down by a mass of contracts, minutes and letters that seem to have such a slight bearing on any possible concept of proof in this case.

Judge Morris added another startling statement. The events of 1937, he said (that was the year of the documents), had nothing to do with the case because they concerned "the expansion of Farben activities before there were any acts of aggression." Yet how could we show that the Farben directors had prepared for a war without proving their warlike preparations?

The court adjourned for the day. I stayed up working most of the night. Next day, over strong defense objections, I gave our answer:

We are not trying these defendants simply because they possessed great power. We are trying them because they used that power criminally. That distinction we urge with all the earnestness we can command.

Standing alone, the proof which shows Farben's bigness and power proves no crime. Farben is not being tried on any social and economic grounds — not because it is a monopoly or a cartel, not because it did or did not deal with unions, or failed to pay its income tax, or had any of the other shortcomings that normally are laid on the threshold of corporations. Social and economic questions are not germane.

But the size of the Farben empire and the strategic importance of Farben techniques *must* be grasped in order to understand the significance of events which took place during the period of the indictment. We must understand that Farben was not an ordinary business. It was an enterprise which asserted influence of such importance that the government used it for its own ends (political and military) and Farben in turn used the government for *its* own ends. In some respects it was an organization more powerful than the German government.

Where one man shoots another in cold blood, proof of the possession of a pistol is sufficient demonstration of the power to kill. But where, as here, a criminal assault upon the whole world is charged, the proof is more complex. And, unfortunately, it is often extremely dull. It is nonetheless vitally relevant to show what power the accused commanded.

Then, by still another way we tried to show the sources of the defendants' power. We took down our charts. We traced a narrow path to the office where the DuPont representatives must have got their information. For the time being, we would forget everything except the Nazi rearmament.

We said to the court: When a country rearms against a military threat that is close at hand, those who make the munitions are not criminal. But if the defendants led an underground rearmament that went beyond all bounds of national defense, such conduct was *one* evidence that they were willing to risk an aggressive war.

Hermann Schmitz was the expert on whether rearmament would so inflate a national economy that it must gorge itself on its neighbors to survive.

After several conversations with Abe Weissbrodt, the British Major Tilley, and a Treasury lawyer, Lawrence Linville, Schmitz blurted:

Before Hitler, Germany was in an economic crisis illustrated by an unemployment of six million people, and our investments were ab-

normally low. As soon as Hitler came into power, things began to change and our investments grew. In 1936, they started to jump rapidly, and in 1938 they grew to an extent of approximately RM 500,000,000. It was absolutely clear that our new investments were tied up directly and indirectly with the armament program.

Schmitz also told Linville that he had been "concerned lest the new investments with the Wehrmacht bring Farben to financial ruin." He was successful, however, in getting many subsidies and other guarantees from the government. Then, to ally production with the financing, Farben set up the "army liaison office" under Professor Carl Krauch:

In 1935, we had to set up a department called the *Vermittlungstelle* to handle affairs between the different works of the I.G. and the Wehrmacht. I believe it was Mr. Krauch who was put in charge. In 1936 Goering asked for the matter with Bosch, and we finally agreed that it might be better to have an I.G. man in charge. Therefore, we placed Krauch at Goering's disposal. And I remember that a few years ago when I attended Goering's birthday party, Goering said to me, "I thank you very much that you have given me Krauch."

Thus, according to Schmitz, one key office had controlled Farben's investments since 1935, and all of these investments had been for armament. Professor Krauch distributed his own statement of purpose. The *Vermittlungstelle Wehrmacht* was to be a clearing house between the military authorities and the three great productive divisions of I.G. Farben:

The newly founded *Vermittlungstelle Wehrmacht* has as its task the simplifying and building up of a tight organization for armament within the I.G.

In case of war, I.G. will be treated by the authorities concerned with armament questions as one big plant which in its task for armament, as far as it is possible to do so, will regulate itself without any organizational influence from outside.

To the field of the work belongs, besides long-range planning, continuous collaboration between the authorities of the Reich and the plants of the I.G.

The three great productive divisions which would send their government-contact men to Krauch's *Vermittlungstelle Wehrmacht* were known as *Sparten*. But the main products of each *Sparte* did not sound military. Professor Krauch himself headed one *Sparte*, with thirty-odd factories that had grown from the production of nitrogenous fertilizers for the Rhineland farmers. Krauch's *Sparte* also made synthetic gasoline.

Another *Sparte*, situated in the lower Rhine Valley, employed the cellulose chemistry that turned out cameras and films and artificial fibers. The third *Sparte* made dyestuffs and synthetic rubber (buna).

Although these three great divisions were to be co-ordinated for "a possible war," on that day in 1935 the few fellow scientists who joined Krauch in his new endeavor moved into the poorest space at Berlin Northwest 7, at the rear of the building. A few weeks later, when Krauch took his coat hanger with him as he left for his Berlin apartment (he was going to work for Goering next day), the three *Sparten* occupied only three small rooms.

Succeeding Krauch as head of the *Vermittlungstelle Wehrmacht* was Dr. Friedrich Hermann ter Meer. Dr. ter Meer was governor of the dyestuffs-and-buna *Sparte*, which made more than 10,000 other products of which Ter Meer had a perfect understanding. Though Krauch was the directing expert on gasolines, Ter Meer had an equal understanding of fuel synthesis. In any modern city, besides being Krauch's partner in an oil refinery, Ter Meer could have been the druggist and the maker of all the paints and dyes and light metals.

Dr. ter Meer now entered the prosecution's case. We could not keep him out. Along with several other directors, Ter Meer had been transferred to Cransberg Prison, where Schmitz had "talked." Schmitz produced a copy of his statement, which Ter Meer read in consternation. He sat down and wrote a long letter to the American authorities.

This statement of Schmitz's caused great concern among the entire group of I.G. Farben leaders since it was believed that it contained wrong conclusions [and] we decided to work out a complete statement in which we gave the right interpretation. . . .

All these investments amounting to hundreds of millions of marks, resulted from purely private initiative, free from governmental planning, and in continuation of Farben's old established policy to put into practice the newest achievements in science and technique in all fields of its activities.

Dr. ter Meer also claimed that the *Vermittlungstelle Wehrmacht* had never carried out the program Krauch had announced. From three rooms in the rear of Berlin Northwest 7, could Farben direct its far-flung plants in a deliberate scheme to make war? This was the question posed by the most formidably equipped of Farben's industrial scientists. As chief director of all dyestuffs, with Von

Schnitzler's dyestuffs committee as a mere advisor, Ter Meer had given the lie to Von Schnitzler. And now he was giving the lie to Schmitz.

Thus either Farben had joined its government with the Nazi government, or it was "completely free from government planning." Either the *Vermittlungstelle Wehrmacht* was a grandiose war dream that misfired, or a murderous schemer whose *corpus delicti* had been buried.

Many of the *V.W.* records had been destroyed. But the Alexandria warehouse had sent up some reverberating implications.

As soon as it was established, the *Vermittlungstelle Wehrmacht* ordered the construction of bomb-proof tanks, for storing gasoline.

Three weeks later, it drew up plans to produce 472 tons of "stabilizers" every month. The Farben "stabilizers" were used in gunpowder to prevent premature explosion. These plans were secret. This quantity, 472 tons, was enough to sustain the production of 11,875 tons of gunpowder every month. This was ten times the production permitted under the applicable treaties for *all* explosives, including dynamite.

There was also evidence before the Tribunal that many of the Farben investments had backed the gay colors and catalysts of Dr. ter Meer's *Sparte*. Sometime before 1933, a Farben scientist who had observed Model-T Fords boiling over in winter had been inspired to make an anti-freeze with a higher boiling point. This was Prestone. Prestone was a synthetic oxide known to the chemist as *glycol*. And glycol, when made to react with itself twice, became *diglycol*, which when nitrated became an explosive. In August 1935, the *Vermittlungstelle Wehrmacht*, after discussing the matter with the Wehrmacht ordnance, decided, in secret, to build a diglycol factory.

This diglycol factory was only one of many Farben factories that did not bear the Farben name. The parties themselves thought up cloak-and-dagger pseudonyms. One of these pseudonyms meant "shadow." And from 1936 until the invasion of Norway in 1940, thirty-seven shadow factories were erected in Germany. All but one of these shadows was built, owned, and operated by I.G. Farben, while the Wehrmacht put up all the money.

1936: A shadow plant at Tuetschental, to produce magnesium, and to stockpile the magnesium Farben gathered abroad. Shadow factories at Doberitz to produce "something" that went to another Farben factory on the Rhine. ("The factories," said the contract,

"will be erected solely for the purposes of the Wehrmacht, that is, for the case of war.")

1938: At Frose, a shadow factory to make nickel and tetraethyl lead, "in consideration of the interests of military policy." The tetraethyl part of this Frose factory produced three hundred tons per month. This, and the Capel plant, both Farben-owned shadows, were the sole producers of tetraethyl lead. These shadows were so successfully planned that Allied aircraft never touched them.

Secrecy within secrecy! The Alexandria papers hinted that Farben's part in rearming Germany, as Von Schnitzler said, went far beyond simply making what the government asked them to make.

Farben's government contracts contained mutual pledges of secrecy. Farben pledged not to tell what was being produced. The government pledged that if they ran across trade secrets in inspecting the Farben producers at work, they would reveal them to no one.

Jan Charnatz rose to identify the evidence proving that all the defendants had participated in these doings under pledges of the strictest secrecy:

May I just cite the numbers of the documents. The exhibit number NI-6192, found on page 77, became Prosecution Exhibit 153. This document is such a pledge, signed by the defendant Krauch.

But Judge Morris was not impressed.

Mr. Prosecutor, I think you are taking quite a lot of time. . . . I doubt if we are greatly interested in just what particular measures were taken in regard to this secrecy.

Again Judge Morris' inattentiveness, the uncomfortable shifting in his chair; then the abrupt statement. It was too early to weigh his influence on Presiding Judge Shake, or the other regular judge, Paul Hebert, or the alternate judge, Clarence Merrell.

The path to the *Vermittlungstelle Wehrmacht* had been clearly marked. Still, there were roadblocks that, in our ignorance or haste, we had not pushed aside.

There was the roadblock of "war" itself — appallingly remote before it begins, somehow unbelievable even after it begins. With the outbreak came gargantuan falsehoods, and every man must believe in some of these to make the moment seem real. For

centuries war has been made in the history books by "causes," or by one tyrant, or, according to the biased pens of some historians, by a whole people — seldom by ten men or a hundred. Along with our prosecution ran another which all of us had already lived through and judged — the bloody story of Hitler's conquests, and the rutted conclusion that only total-warlords can be responsible for an aggressive war. Even if theoretically a whole people could be held responsible (which they could not), proof would be impossible, for how would investigators set about to prove a conspiracy of millions of people? Only people of great power could possibly be guilty, and if hundreds of thousands of people each had such power, the world would fall to them in an hour.

A conspiracy of twenty-four men was not impossible, of course. But men who fired no guns, who ordered no attack, couldn't be found guilty unless their power was not only indispensable to war, but vast enough to prevent a war before it started, or halt it after it started, or lessen its terrors.

So, while the prosecution couldn't understand Judge Morris' failure to grasp the evidence, we had our own doubts. After studying these defendants for many months, I was startled every day by the tremendous import of what we were proving. A political leader's power might be proved simply by showing his orders to his generals to make an unprovoked attack. These defendants represented themselves to be neither political nor military. If we, the prosecution, sometimes were surprised that they presented no stereotyped picture of conquest, wasn't it understandable that the Tribunal might feel the same way? Perhaps they were waiting for something like a scroll — found in a salt mine or a dance hall — saying: "We, the undersigned, are determined to get this country into a war of conquest."

Yet the record now held hundreds of documents proving that the defendants' participation in Germany's war was both highly responsible and extraordinary in its scope. The judges had let it be known that they expected the prosecution to delineate this crime of preparing and waging an aggressive war so clearly that any industrialist in the future would know what course of conduct was legal and what was to be regarded as criminal. "How can we spell this thing out," I asked myself and the staff, "so it is perfectly clear on the record that Standard Oil and the DuPonts are not guilty of any crime merely because they participate in rearming the United States for defense?"

Then, toward the end of October, with the trial two months old (it was almost a year since I'd come to Nurnberg), we began to present evidence of Farben's plunderings in Europe. Judge Morris himself questioned the witnesses. And both he and Judge Shake were visibly disturbed when the French stockholders of Norsk-Hydro and the old managers of that firm explained how Ilgner, Schmitz, and two other Farben directors (Mann and Oster) had stolen the chemical industries of Norway.

Here were offenses violating the traditional American juridical respect for private property. And from these activities there emerged not "forces" or "causes," but men whose techniques for one kind of conquest had been demonstrated long before.

In 1936, when Hitler marched into the Rhineland showered by the confetti of the Versailles Treaty, Farben was already there. Many of the occupying Nazi troops carried equipment that Farben had been taking out of the Rhineland for more than nine years.

Hitler did not know where all the Farben equipment came from, nor did he know he was marching into territory partly Farben-controlled. But had he known, surely he would have appreciated the value to him in the coming war of Farben's past strategy of economic conquest.

For in 1927 — the year in which Hitler had made concrete plans to get back the Rhineland, which Germany had once possessed — Farben had seized interests there which neither the young combine nor its predecessors had ever owned. The pretext for the seizure was that Farben had come to redress the industrial injustices of the Treaty of Versailles.

Now nine years later, at almost the exact moment Hitler crossed the Rhine, Paul Haefliger, a Farben director, was on a train crossing from southern Germany into Austria, on a mission approved by the entire Farben *Vorstand* (board of directors). Some hours later, as Hitler screamed to the Reichstag of the first "victory" since World War I, Paul Haefliger calmly informed several gentlemen of the Austrian chemical industry that Hitler had taken the first step toward correcting "Versailles." It was a strange scene, half-threatening, half-peaceful. Haefliger's demeanor was neither martial nor particularly friendly — he looked like Boris Karloff on a sunny day.

Though a director of a German firm, Haefliger was a citizen of traditionally peace-loving Switzerland. He had never shouldered

a gun. Yet he was speaking to men who manufactured all the gunpowder on the Austrian market.

Skodawerke-Wetzler was their firm, the largest chemical company in Austria. Like so many other explosives firms doing business after World War I, it had taken a misleading name. If he understood these ironies, Haefliger did not apparently mention them. He did bring his political news unofficially, he said, along with the deepest respects of the *Vorstand*. With the Rhineland about to be occupied, the *Vorstand* had decided that Skodawerke-Wetzler might be safer in Farben hands.

The officers of Skodawerke-Wetzler were not surprised. While Hitler had been painting postcards in Hapsburg Vienna, still merely brooding over the lack of "German feeling" in Austria, Farben had first attempted a chemical *Anschluss*. Or perhaps *Anschluss* was not the right word for it yet. Clearly, Hitler's occupation of the Rhineland did not constitute enough pressure to remove the proposition from the business to the political world. The Skodawerke-Wetzler officers refused now as they had in 1925.

Haefliger came back to Berlin to report to his superior on the commercial committee, Dr. von Schnitzler. Within a few months after occupying the Rhineland, Hitler was openly shouting for German union with Austria, and Von Schnitzler did not make the mistake of sending Haefliger again to Vienna with empty threats. First, he presented a claim to the Nazi government. To officials of the Reich the claim was quite a joke, for even if they wanted to, they couldn't grant possession of territory they did not yet occupy. But a year later, after the Nazis murdered the Austrian dictator Dollfuss, Haefliger went back to Vienna to see the managers of Skodawerke-Wetzler. He dropped coercive hints that since the prodigal Austria would soon come back to the Fatherland, Skodawerke could best protect its interests by selling 51 per cent of its stock to I.G. Farben.

Skodawerke-Wetzler's parent corporation was owned by the Rothschild banking people, with a lesser interest held by the Czech National Bank in Prague. Neither Rothschild nor the Skodawerke managers fancied Haefliger's arrangement, but the fear of German invasion made them polite. In February 1938, Skodawerke's general manager gave the firm's last voluntary answer, in a letter to Dr. Schmitz: "It is not possible to relinquish our

standpoint that the *Kreditanstalt* unconditionally must keep 51 per cent of the shares in its strict control."

At dawn on March 12, 1938, German troops crossed the border into Austria. For ethnic reasons, Hitler's plan for governing Austria was not much different from his administration in Germany. Austria was to work for the German industrial mobilization, but her industries were not to be subjugated.

On April 9, Haefliger offered his "co-operation" to Hitler's economic advisor in Vienna, Wilhelm Keppler, stating that Farben was willing to "participate in the reconstruction of Austria." The offer was a bid for unlimited control. Keppler turned him down. Hitler's government in Berlin supported Keppler by issuing a decree forbidding any German firm to acquire any Austrian enterprise. Even the Jewish enterprises of Austria were to be left unharmed, for the time being, at least. Their future may have been insecure, but the Farben directorate did not wait to find out.

Schmitz and the other directors, remaining in Berlin, then approached the Goering circle. From March until June, they reminded Goering repeatedly that there were many Jews in the Austrian chemical industry who should be replaced by Aryans, whom Farben stood ready to supply. Even before a decision was made, Schmitz prepared the directives which would "safeguard uniform Farben interests":

All non-Aryans employed by the Austrian organizations should be given leave of absence, i.e., should be dismissed. Likewise, the directors and members of the managing boards, in so far as they are non-Aryans, are to be asked to give up their mandates.

But this appeal to what Schmitz called "Nazi idealism" could not move Wilhelm Keppler, Hitler's economic advisor in Vienna. Not until Dr. Max Ilgner launched a counter-attack from Berlin did Skodawerke fall back. Paul Haefliger wasn't familiar with all the details. Haefliger said:

I was advised that "Mr. Joham had not been willing in the past to part with the majority of these shares." However, time was evidently working with Dr. Ilgner.

With the fast-growing, in fact revolutionary, unrest in Austria, the completion of the deal must have become very urgent for the Jews, Mr. Pollack and Mr. Joham.

Joham, director general of the parent corporation, conferred anxiously with Pollack, manager of Skodawerke-Wetzler. Pollack

called in Farben's Vienna representative and surrendered his desk. The Rothschilds bowed to force. The Skodawerke became part of the Farben empire.

The "offered price" for Skodawerke had been extremely low, but the Austrians accepted it because Farben had promised protection for their lives. In one case at least, protection of the Skodawerke officials by someone was possible: A Dr. Rottenberg was saved by the intervention of a non-Farben friend whose life he had once saved. But Farben did not try to save the two Jewish directors.

Joham escaped from the Gestapo. Pollack's house was "searched," and he was literally trampled to death in the presence of his sister, though one of the SS men commented that "it was a waste of shoe leather." Scores of supervisory employees, Jews and Aryans alike, were dismissed and arrested after Farben took over.

Its first victory over Austrian chemistry assured, Farben did not have to hint or dicker in dealing with the other Austrian companies. There were two large chemical firms, Austrian Dynamit Nobel A.G., which manufactured gunpowder, and Carbidwerke Deutschmatrie A.G., which, with its main subsidiary, manufactured chlorine products, alkalis, sulfuric acids, and superphosphates. These two firms were owned by both Aryans and Jews. In pushing the owners to sell, Farben deceived them by stating that all personnel of both firms would be considered Jewish by the Nazi government, that their property would be confiscated — thus did they not prefer to come under Farben protection?

These two firms were taken by Farben under a contract which would be illegal on its face anywhere in the world. For nothing but the promise to go on paying dividends for twenty-five years, Farben got all properties and interests. This was the same situation as if one were to acquire a \$1000 bond bearing 3 per cent interest, by paying the "seller" the 3 per cent interest he would receive anyway and getting the \$1000 principal for no money consideration whatever.

In a series of lightning transactions, the three Austrian conquests would soon be amalgamated into a single combine 100-per-cent Farben-owned — Donau-Chemie A.G.

The Tribunal had listened with singleness of interest. Even Judge Morris' earphones had been cocked toward the prosecution. I

thought: The theft of one factory is easier to grasp than the complex preparations for the conquest of a nation. But then the evidence crossed the border into Czechoslovakia. In the spring of 1938, a small chemical firm, Chemische Fabrik von Heydon, had made a deal with the Reich government to take over two Czech chemical plants at Falkenau and Aussig when Czechoslovakia was invaded. Before the Munich pact, however, Farben put in a claim. We placed in evidence a file note of a meeting in the Reich Ministry of Economics at which the Von Heydon firm protested Farben's interference. The protest didn't do much good. We made the point that we would go on to show the aggressive significance of Farben's having prepared — before Munich — to take over part of Czechoslovakia.

Judge Morris was unhappy again.

JUDGE MORRIS: At the beginning of the last count, when I spoke up in this courtroom about this case becoming bogged down by a lot of irrelevant evidence, we were promised that that would all be connected up after a while. Now loose ends are lying all over the place.

MR. SPRECHER: May it please Your Honors, as chief of this trial team, I feel a certain responsibility as to many of the things which have been selected to go into evidence. From the beginning — and I have had this task for nearly a year — I never conceived that this was an easy case. When we come to the most cunningly camouflaged financial penetrations, we have difficult problems.

We have cut many of the documents we considered relevant, in view of some earlier remarks concerning the length of some of our documents. We have no hesitation in saying that we feel we have eliminated all we can honestly eliminate in view of our responsibility to see that the facts are laid before this Tribunal and the world. Taking the defendants' admissions alone, and putting them beside these facts, we feel we are meeting the burden of proof.

Presiding Judge Curtis Shake remarked that much of the evidence so far repeated what was already in evidence. He spoke, he said, for himself alone. . . . "Do any other members wish to — Judge Hebert?"

Paul Hebert's eyes were alternately tranquil and sharp behind steel-rimmed glasses. As dean of Louisiana State University's law school, he had been called to the acting presidency of the University following the "Louisiana scandals" and had been largely responsible for cleaning up the financial irregularities in the University and having it returned to accredited standing. As a scholar with practical experience in the difficulties of analyzing facts, he

now made his first dissent, mildly but as if surprised to be voicing this opinion in open court.

JUDGE HEBERT: Mr. President, we are dealing with the knowledge which would be necessary to charge these defendants with criminal responsibility under the precedents laid down by the International Military Tribunal. I can fully appreciate the difficulties, inherent in the very nature of this case, that confront the prosecution in selecting the evidence going to prove such criminal intent. I believe it is incumbent on us to receive this evidence with an open mind. For lack of understanding their full import, I can't say that the documents we have been receiving here today are irrelevant.

On the contrary, I am rather inclined to feel that the prosecution might be charged with being remiss in its duty if it overlooked any evidence which, in its views, has relevancy to the charges. Whether some of these documents will be deemed sufficient in the end is quite another matter, as to which I shall still keep an open mind.

Judge Clarence Merrell, the alternate judge, would have to vote if one of the others were forced to drop the case. He spoke twice about the court's keeping its mind open. Judge Shake frowned; he had recommended his friend Merrell, who also came from Indiana, for this job. Merrell had pleaded many cases before him in the Indiana supreme court. Informal and likable, Merrell was the sort of fellow, I thought, whom an attorney on either side might phone and say: "Now, Charlie, I sure wouldn't ask you to pre-judge this case, but if I were to come into your court and contended thus-and-so (now, I'm not asking for a ruling, understand), what sort of precedent would I need to argue that contention?" And Charlie would begin by asking what kind of fools had been admitted to practice in his court, and end by saying, "I don't know whether thus-and-so would apply, but look it up anyway."

Yet it was Merrell who reminded the court of what true dignity meant:

The evidence is being presented so fast that it is impossible for us to exercise judgment unless it be snap judgment, as to what is relevant. There is no jury. The case will be passed upon by the members of the Tribunal, who are supposed, at least, to be trained in analyzing and considering evidence. I am sympathetic with the tactics which would put the evidence up for the consideration of the Tribunal, and if there is any question as to its relevance, I would err on the side of putting in too much rather than keeping out something which might in the final analysis have some bearing.

May I make this additional comment? I deplore somewhat the comments which have been occasioned here, and it would seem such matters should be passed upon in an official way rather than different members being called upon to express their personal reaction.

Having brought on the row, Judge Morris pointedly ignored the two pleas for open-mindedness. What did it really mean, this repeated complaint that the evidence was irrelevant? Often he had referred distastefully to the "lengthy documents, the large number of documents," as if the prosecution should try to condense a tome to a headnote:

We are supposed to conduct a speedy trial. . . . And so, it seems to me, that when the record of trial is reviewed, if it is too long and complicated, the responsibility will primarily lie with the prosecution.

A threat that was not veiled! I believed, however, that two things underlay Judge Morris' unhappiness—a lack of interest in the subject, and the fear that the trial would never be finished. I recalled getting acquainted with Morris at a luncheon on the first day of the trial. Looking around the once-bomb-smashed ceiling, he'd shaken his head and said: "We have to worry about the Russians now; it wouldn't surprise me if they overran the courtroom before we get through."

The moment had come for the Presiding Judge to salvage a little unity from this shirt-sleeve judicial behavior. He tried, but his temper won out. First, he was "very happy to say" that he considered it an honor to preside over a tribunal of men who had the courage to say what they thought:

This is not a Tribunal of one mind; it's a Tribunal of four minds. That's all I have to say officially. And now as one member and not as the presiding officer, I should make one dissent from a sentiment expressed by a couple of my associates, and that is that I do not have any sympathy whatever for the prosecution in this case, or any sympathy for any defendant. In the final resolution of what my judgment shall be, speaking personally, so far as is humanly possible, it will be devoid of sympathy . . . and based upon what I understand to be the law and the evidence to establish.

Thus he ended the issue with a blast at his friend Merrell. It was Merrell who had expressed "sympathy" not for the prosecution as individuals but for their "tactics" in putting a full story before the court. Shake had been so angry at Merrell that he believed —

or wished to suggest he believed — that Merrell was partial to the prosecution staff!

Judge Shake's "four minds" were really two, for the time being anyway. The court was split right up the middle.

PART FOUR

CONQUEST BY INDUSTRIAL ROBBERY

II. How Can You Call It Murder?

THE FOUR OF US who went to Prague for a holiday needed no special excuse. During the past three months, Duke Minskoff, whom I had recruited from the Treasury, had traveled night and day in England, France, Poland, Germany, and Czechoslovakia. Since he didn't mind going to Czechoslovakia again, this weekend would be a deserved holiday with his wife.

My wife and I deserved a weekend free of Farben, too. Yet that morning I woke up with the odd feeling that if Paul Haefliger had not taken that train to Vienna as Hitler was invading the Rhineland, we would not be going to Prague. This feeling didn't come out of the blue. The day before, the prosecution had begun to trace the Farben plunderings from Austria to Czechoslovakia; and after the court adjourned, one of the judges called me aside to repeat that we would have to "organize the case a little better."

That didn't fully explain my hunch, though. I went back through the darkness of sleep hoping to find its origin. Instead, I was met by a contrasting thought. Haefliger had been unarmed when he went to Vienna in 1936, and now, in 1947, Red troops were massing along the Russian border of Czechoslovakia.

A very thin association of events indeed. Even supposing Haefliger's first trip to Vienna was criminal (which it wasn't), and supposing that the presence of Red troops along the Czech border was a crime (which it might be) — these events were eleven years apart. Yet as we crossed the *Autobahn*, I was still thinking about them.

We took the dirt road following the Pegnitz River, past clumps of slender trees that grew up from the edge of the water. As we reached the deserted ice house not far below Furth, the road turned to unfold behind us the whole distance we had traveled so

far, and our wives wanted to stop. We got out and looked back. The city of Furth and the eastern outskirts of the newer Nurnberg seemed to join as one metropolis, and then above them in archaic splendor were the crumbled walls of old Nurnberg.

This was a political illusion. Furth was really the only city of refuge in Germany. Fleeing from Allied bombs, even the Nurnberg Aryans had crossed the Pegnitz, joining remnants of Jews who had run by night from the Nazis into Furth's southern outskirts. In the first century, only a chapel had stood on the west side of the river, at that point so narrow that the chapel's monk had built a rude bridge. He had named the spot Furth, which meant "passage." For several hundred years, Furth had remained pastoral, while on the river's east side Nurnberg emerged from the bitter tribal feuds to become the political center of the counties hereabout. During the Thirty Years' War, the old Nurnberg wall had been high enough to shut out a defenseless handful of citizens in Furth, and strong enough to withstand all assaults. Yet it had crumbled in a thirty-hour bombing, while the bridge of Furth still stood. (Our wives were reading from a guidebook.)

The meaning I had lost in sleep — was it somewhere in the exciting irony of that view down the river? Again, there was only the most general connection. Furth was a larger city now, swollen by the displaced Jews and Poles who could not see the little bridge from their camp. Other victims of war were there, too, from Germany and all the Balkans — and the first new Russian refugees. Mingling among them, in G.I. fatigues that hid the scratched vows on their wrists, were Nazi killers.

Centuries before, others who had killed had later crossed the bridge to starve with the innocents — but neither killer nor victim had had time for a scheme of judgment. Swords must be turned into plowshares for the coming of winter. There was no time to build a wider bridge.

"The court bothers me," I said to Minskoff. "They've let it be known that we'll have to organize the case some more if we want them to get the picture."

"One picture is worth a thousand words," he said, his dark eyes twinkling. "So what we need is a thousand photographers."

Minskoff was in a gay mood. He got into the front seat while our wives jumped in behind. We drove off, two separate parties, one enjoying the scenery and slightly annoyed at the others. Duke assured me that while he regarded judges as being in a category

with policemen, teachers, and fathers who order their children to get in by ten o'clock at night, from what little time he had spent in the courtroom he agreed that the prosecution needed "organization." He added: "I'm for 'climbing the stairs.'"

"What do you think we've been trying to do?" I said.

"You haven't climbed very far, have you? Why don't you take Auschwitz as a proposition and argue it on up."

I didn't know exactly what he meant. Everybody had his baby. With him it was Auschwitz, with Belle it was aggressive war.

"Oh, the evidence is fine," he went on. "The trouble is with the *men* involved. The court just can't believe these are the kind of men who could have been guilty of aggressive war."

"That's a pre-judgment," I said.

"Of course it is. But I still say you should argue Auschwitz; then they will see what kind of men they are trying, and they'll understand all the rest of it. We should have started with Auschwitz on the first day."

I pointed out that it was too late to go back to the first day. But he was not to be put off.

"All I'm saying is that we can use a simpler method of proof from now on, one that would reflect back on the proof that's already in. It's hard to take the rearmament up the line. It's not so hard with some of the things that happened at Auschwitz. For example, Farben built its buna-rubber plant near Auschwitz and put the engineer Duerrfeld in charge. And then we show that Duerrfeld's boss, Ambros, knew that concentration-camp inmates were being used at the plant, and he reported this to Ter Meer and the other members of the technical committee. But these technical-committee members were also members of the board. In this way we can show not only what kind of men these defendants are, but also begin to show responsibility all the way up to the top."

"Your simple method is fine," I said. "But where is your simple proof? We may find that the judges are no more inclined to believe all the horror that happened at Auschwitz than many officials in Washington who heard about it during the war. A human mind can only take so much."

"Oh, there are always some spots of relief even in horror stories. Let me tell you one," said Duke.

He launched into an experience he'd had the day before.

Minskoff had been working night and day with another investigator whom he called "Bunny." "Bunny's" real name was Ben-

venuto von Halle. While working in the German underground, Von Halle had bowed his way into Nazi circles. By late 1933 he had cozened a high official into granting him a visa to go to the United States to see the Schmeling-Baer fight.

As Minskoff explained it, the fight was the longest in boxing history: Von Halle had come back to Germany only a few months ago. "Bunny" and "The Duke" had been trying to trace responsibility for certain medical experiments at Auschwitz right up to the head of all Farben's pharmaceutical factories, Professor Heinrich Hoerlein, Nobel Prizewinner for services to humanity. Hoerlein, in jail, was not talking.

The giant pharmaceutical plant at Hoechst was now in charge of another leading chemist, a Dr. Bockmuehl. Although Dr. Bockmuehl had been working every day on both the business and technical management of this tremendous plant, through his assistants he had notified Minskoff that he was too sick to testify "concerning Farben participation in medical experiments on concentration-camp inmates." Minskoff and Von Halle telephoned these assistants to say that they were coming to Hoechst. They were told that Dr. Bockmuehl's "poor condition" had just necessitated his removal to one of the local hospitals. The following day, they visited the hospital anyway and received a strangely unanimous welcome. Everyone on the staff informed them how terribly sick the good Dr. Bockmuehl was and that his illness had affected his powers of speech.

Minskoff insisted on an immediate interview, assuring the resident physician he would bear in mind the witness' condition. The resident physician ushered them to an empty room, bare even of furniture, and directed an attendant to carry in a desk for Minskoff and Von Halle.

About five minutes later, four stretcher-bearers carried in Herr Dr. Bockmuehl and tenderly placed their burden on the floor beside the desk. "It was very clear who would be at a disadvantage," Minskoff said. "The Doctor didn't particularly want to see us. He'd lost his powers of speech, and now we couldn't see his face unless we leaned over the table." Minskoff had then suggested to the attendants that all of them might be more comfortable sitting in chairs. Chairs were brought in, and while Minskoff and Von Halle sat, two of the stretcher-bearers helped the Doctor to his feet and eased him into a chair in front of the desk. Von Halle put all the preliminary questions. Bockmuehl's

answers were almost inaudible. Even when Von Halle got to the point — and the Doctor answered with denials — the impression was of two men whispering to each other; for Von Halle had a soft voice, at least on this occasion.

In contrast, Minskoff's voice was loud, gruff, and impatient with "these obvious fabrications." He addressed himself to Bunny, shouting and pounding the table, instructing him to tell the witness that he, Duke Minskoff, knew the Doctor was lying. Then Duke suggested further inquiries based on one of his own fictions. "Well, show him this letter with his own signature on it, and ask if it is not clear to him that he knew that the letter was an instruction to the commander of the concentration camp to perform medical experiments."

Minskoff had directed Bunny in English, which gave the instructions conviction, for he knew the Doctor understood simple English, and the Doctor didn't know he knew. Bockmuehl, along with all the other officials at the pharmaceutical plants, had regularly attended Dr. Hoerlein's staff powwow, the "Pharmaceutical Main Conference" — was that not so? And at these conferences, Dr. Hoerlein had ordered him to send the drugs to Auschwitz for testing — had he not?

The witness was in a sweat. The more impatient the Duke became, the softer grew Bunny's voice and the more sympathetic his attitude toward the Doctor, as though he were reluctant to ask these horribly embarrassing questions. After a half-hour, Bunny's voice could hardly be heard, but Dr. Bockmuehl was fast getting over his dying. He was so exasperated at having to answer Bunny's moderate, factual inquiries when he was burning to protest against Minskoff's inferences of guilt (which had been omitted, as if out of consideration, in the rephrased questions of Von Halle) that he rose with vehement answers and wild gestures.

When lunchtime came, Minskoff and Von Halle called in an attendant and notified him that they would come back in about an hour. Dr. Bockmuehl, ignored by the attendant, was embarrassed. He looked around for the stretcher-bearers. They had picked up the stretcher with the blankets and pillow on it, leaving him sitting in the chair. He hesitated as long as he could without appearing too awkward, and sheepishly got up and left the room under his own power.

The contrast between his morning entry and his noontime departure was overshadowed in the afternoon. When Bunny and the

Duke came back from lunch, they asked again for Dr. Bockmuehl, and once again the same ritual was performed. The four stretcher-bearers carried in the Doctor, placed him on the floor, then helped him into a chair. After three hours of intensive questioning, Minskoff wanted to wind up for the day. He stepped into the hallway and told a nurse that Dr. Bockmuehl could go back to his room.

Apparently, the Doctor did not know this and thought he was to be left alone again. This time the stretcher-bearers had left him in the lurch, with his stretcher and its paraphernalia still in the room. He was so worked up by the afternoon session that in his anger he forgot how helpless he was supposed to be. Bending down, he picked up the stretcher *and* the blankets *and* the pillow and stalked out carrying these things under his arms.

A near-by hillside passing distantly in the mind; the humming of the engine muted, except once when it climbed with an eagerness that seemed human; the faint supposition that the river threading the road was the Ger, which would lead us to Prague (and if it didn't, what was the difference?) — everything else had been Minskoff's gusty recital. Our wives were almost hysterical, and I'd laughed more than I had for a long time.

Apparently Dr. Bockmuehl was only one of many in the pharmaceutical plants who had been taken suddenly ill; but though the epidemic aroused the gravest suspicions that we were on the right track, it was not evidence. Maybe not, Minskoff admitted; nevertheless, after we got in our case, the defense would need witnesses to rebut it, and apparently all the others he'd been rounding up had, like Bockmuehl, sworn that they knew absolutely nothing about the shipments.

"If they don't know anything, then they can't very well swear on the witness stand that they knew the stuff was *not* shipped. Before I get through, I'll have an affidavit like that from every witness who won't give out with positive testimony for us. The defense will be left with nothing but an argument."

"How do you know the rest of them will say they don't know a thing about the shipments?"

"Well, if most of them don't give that story, Hoerlein may be innocent. And I don't think he is."

"O.K. Go ahead with it."

"Good. You agree then that Auschwitz is the way upstairs?"

"Let go of that," I said. "After all, the judges are lawyers and they would be more comfortable with a theory. I think a theory is what they really want."

"Sure, we must have a theory. It's just like what the first cave-man said when he caught his neighbor dragging his wife away: 'Would you please wait a minute while I get hold of my lawyer?' When a hungry man steals a chicken, that's larceny if the statute says it's larceny. But stealing whole territories is not larceny — that's foreign policy."

The car almost went off the road as I listened to him expound.

"Murder is a crime in every country in the world, but it's no crime in the world-at-large because the Second Circuit Court of Appeals never said so. Ask Senator Taft. He never took the trouble to call it murder before anyway, so now he says: 'How can you call it murder after the war is over?' The charges are very badly drafted, Joe. We should have charged excusable larceny and justified, premeditated killing. That's the kind of theory they'll be happy with."

"That's hardly fair," I said. "If the judges felt that way, they wouldn't be sitting on this trial."

If only a "theory" were as simple as he had put it! The bitter edge of his tone suggested the simple injustices that "civilized countries," one by one, had tried to remedy, but against which the world-at-large had done almost nothing. Yes, there was a lot of truth in Minskoff that couldn't be squeezed into a usable idea for next Monday morning — or could it?

After we crossed the border, we couldn't find our place on the map. On the outskirts of one village we stopped to ask directions of a farmer who was inspecting hopvines in his fields. Minskoff called out in German. The farmer did not look up.

We tried English. "Can you tell us the way to Prague?" He acknowledged with a smile and a shrug. Speaking German better than Czech, Minskoff called out in German again, but the farmer turned his back. "*Prague? Prague?*" we all shouted. Facing us, he waved toward the east — which could mean any one of three roads.

About a half-mile down the center road we saw another farmer driving a team of oxen. When we caught up with him, we got the same routine. He would not answer German.

We were not worried about being lost. Orchards beside the

road meant that there must be another village not far ahead. Suspended on string from the apple branches, little straw brushes swung in the breeze. Our wives finally decided that the brushes were offerings to some fruit god. On the front door of each farmhouse was a wreath. We stopped to look at one. In its center was a neat name card and a date—eight years ago a young man had been killed in the Czech underground. In the cities the dust had settled; here the wreaths were fresh.

Almost everyone in the village spoke English. One man identified himself as a gravedigger. Where were we? Near Karlsbad, he explained. We would have known it anyway a few minutes later when we heard concert music seeping down into the valley. We went on up to the springs, dawdled over lemonade and cake, thinking we would start again in the late afternoon so as to get to Prague by midnight. Something upset the plan after we had been on the road a while.

"A surprise is coming up," Minskoff said. "Get ready for a sharp right."

Around the turn, behind a high barbed-wire fence, deep-green grass leveled out for more than a mile ahead. Set back a good distance from the road was a group of buildings covering an area of about three city blocks. Midway between the road and the building was a large sign: "Prager Verein."

"We should have stopped in Pilsen," Minskoff said. "In Pilsen, they still call this place 'Farben.' When Farben took over here, they impressed about 1100 people from Pilsen. Six hundred of them wound up at Auschwitz. Of course we're in Bohemia now, but this is the parent factory of the first two chemical outfits Farben grabbed in the Sudetenland— isn't that right?"

I agreed. This not being a part of his job, he must have learned the fact somewhere around here.

"Farben got to Czechoslovakia before Hitler did, didn't they?"

I nodded as the car slowed down. Stopping, we got out and went up to the main gate. The guard listened to our explanation, smiled, and asked rhetorically, "Americans?" and let us through. I thought of Paul Haeffiger again, and of how Farben was always months ahead of the Nazis. Somehow that should mean more than it did. The Farben doings in Czechoslovakia were linked to the Farben doings in Austria the previous year by purpose and method, but from the legal standpoint they seemed to stack up as separate ventures. According to the Munich Pact the territories of Bo-

hemia and Moravia were supposed to remain Czech. Therefore, technically Prager Verein was still "free" when Farben took over its two subsidiaries in the Sudetenland. Regarding the taking over of the subsidiaries, I recalled a couple of sentences from the Farben report: "On 1st October began the marching in of the German troops. On 3rd October, Falkenau factory was occupied, and on 9th October Aussig factory was occupied." But Farben had been "negotiating" in the Sudetenland a long time before that.

Duke and I looked the place over. From the outside, there was not much to see. When the place was working, a pilot stack would thrust out a wavering finger of sulphurous flame, visible for miles, and other larger stacks would be smoking. But the installation was not working over the weekend, and the main impression was of white facades which you could not help associating with Progress. We might have been stopping at any one of three or four factories on Route 25 between Newark and Camden, New Jersey— except for that intuition of evil. Farben had been months ahead of Hitler in organizing financial power and in the conquest of productive installations. The Munich Pact had been signed in September 1938. But even before Munich—and several months before the Nazi troops had marched here in Bohemia—Farben had been negotiating to try to take over this parent company. Also before Munich, another firm had arrived in Prague to compete with Farben. Von Schnitzler had sold a piece of Prager Verein to this competitor before he even had any part of it to sell. (Farben was to get this piece back after gaining a majority control.)

In Von Schnitzler's own words, seldom had a "great international agreement been concluded so quickly." At a conference in November 1938, in Berlin, to which the Prager Verein managers were "invited," Schmitz and Ilgner had come to form an impressive audience to Von Schnitzler's demands.

The pressure had culminated in a December meeting, Von Schnitzler presiding. The occupation of Prague was still four months away. Von Schnitzler used the Sudetenland occupation as the persuader. He told the Prager Verein representatives that he knew they were trying to "sabotage" the deal and that he was going to report to the German government that Prager Verein's resistance was menacing social peace in the Sudeten area. Unrest could be expected at any moment, he said, and Prager Verein would be responsible. Actually, there were not many Jews in Prager Verein, and Hitler had no plans at all for taking it over.

Minskoff chuckled over Von Schnitzler's commercial generalship. Farben had not only swallowed the lignite mines and dye-stuffs of Prager Verein, but all stocks, patents, and good will, and had absorbed for the other "buyer" all intermediate plants, stocks, good will, patents, and trademarks. Altogether it was no small feat to do in a couple of months the paperwork that turned the fourth largest business on the Continent into a Farben subsidiary. Minskoff was chuckling even after we hit the road again. He quoted Cardozo's dictum: "Every man has a little larceny in his heart."

"They must have had big hearts," I said. "But was it *larceny*?"

If not larceny, what was it? Farben had been free to keep hands off, or even to support the independence of Prager Verein. One friendly German firm had actually interceded with the Reich and had got a formal agreement of protection for Prager Verein. This firm had lost out to Von Schnitzler's influence. Months ahead in the Sudetenland; months ahead in Bohemia; and —

There was Paul Haefliger on a train to Vienna, and suddenly I remembered that he had come to Prague by proxy even before Von Schnitzler had grabbed off Prager Verein. If briefcases were weapons, Farben had been at war with Czechoslovakia, too, as far back as the Anschluss. In Austria, the last two chemical acquisitions had been subsidiaries of the Prague firm, Dynamit Nobel A.G., a part of the old Nobel munitions empire. This Prague firm had protested Haefliger's "duress," but that had done no good.

You couldn't charge Haefliger with waging a proxy war in Austria or Czechoslovakia. Yet certainly something more than a business and less than an army had developed in Vienna, broken camp, and deployed again in Prague. Along the line of march were the Anschluss and Munich. Were these events merely the predatory tramping of a conspiracy which would eventually set down its largest boot in Warsaw?

Minskoff and I got to arguing whether there was a simple analogy for "aggressive war." We decided to start this time with simpler crimes. Then the idea came.

Robbery.

Wasn't the conquest of one nation by another international robbery? If a country, through its leaders, embarked on a program to take from the peoples of neighboring countries their land, their property, or their personal freedoms, why shouldn't the ordinary

rules as to robbery apply? A long time ago, a single man could take the property of another without being held responsible. Then the communities enacted laws stating that such deprivations were crimes. It was equally clear today that the world community could not survive unless conquest by force was made criminal.

This analogy to robbery knocked down two important contentions of the defense. Defense counsel had already hinted that the prosecution must show that the Farben directors knew precisely what nation Hitler was getting ready to conquer first, and the exact time when the invasion would come. But if a man joined with a group of gangsters in an undertaking to rob a series of banks, he would still be guilty even if he didn't know which bank would be robbed first or precisely what time the robbery was scheduled to come off.

"There is the other point, too," I said to Duke. "The case of the robber who uses the threat of force, then tries to argue — without success — that he didn't intend to shoot anybody. A guy who holds up a bank doesn't necessarily intend to kill anyone. His primary goal is to get the loot. He may be prepared to kill if necessary, but he would certainly prefer to get away with it without firing a shot."

"In other words," said Duke, "you are saying that we shouldn't have to go so far as to prove that the defendants necessarily contemplated a shooting war. Take Czechoslovakia. Germany conquered her without a shot being fired, through the threat of force rather than the actual marching of troops."

We were getting close to a valid theory, though we were not quite there. Arriving at last in Prague, we let the matter go in favor of more enjoyable things.

12. *A Sojourner of Four Countries*

MAURCY SZPILFOGEL had none of the itinerant interests of the organ-grinder, the street singer, or the cosmopolite. Though displaced, he would rather do nothing if he could not go back to his chosen profession, chemical science. Not that he disliked traveling; in fact, he was versed in the languages of Poland, Switzerland, Austria, and Germany — and in Russian besides. It was precisely

this linguistic ability which made his complaint a strange one for an uprooted European. In any language, he didn't like the improper use of quotation marks — such as calling people "gentlemen" when you meant *Jews*.

Until one day late in 1939, Maurcy Szpilfogel had himself used quotation marks according to the traditional rules. He'd had no reason to believe anyone thought he was a bad scholar in that or any other respect. He had graduated with honors from the Polytechnic Institute in Karlsruhe, Germany. He had earned his doctorate at the University of Bern in Switzerland. Then he had worked in Vienna for two years. But he loved Poland and went back, as he had planned, to Piotrkow, where he was born.

In Piotrkow, Szpilfogel had formed a company called "Wola" which began to sift the Polish earth. While the Farben scientists were still trying to conquer coal, water, and air as raw materials, Szpilfogel was making yeast, alcohols, and dextrose from potatoes. He became the first chemist in Europe with a dyestuffs-and-drugs business independent of the outside world.

His independence did not last many years. In 1939, soon after the Nazis invaded Poland, the Farben director Wurster "happened to pass by Wola" and wrote up his impressions for the other Farben directors. "The owners," said Wurster, "are three 'gentlemen' named Szpilfogel, Goldfisch, and Augenblick."

Now, as Szpilfogel waited to testify, from the dock the Farben directors hastened to praise his character. "Herr Szpilfogel was a man of caliber who, for the first time, introduced naphthal dye-stuffs in Poland. He was, no doubt, a highly respected personality."

Today Maurcy Szpilfogel had no fatherland and no family. His two partners had been killed in the Warsaw ghetto. It was the custom of the court to swear each witness according to the oath of his own country. No one in this court knew the Polish oath. Dr. Szpilfogel could take his choice between the German and American.

I, Dr. Maurcy Szpilfogel —

THE PRESIDENT: Repeat after me: "I swear that the testimony that I am about to give will be the truth, the whole truth, and nothing but the truth, so help me God."

It was all a matter of form. An international trial, an American oath; why not? He had already told the story in English: "I, Dr. Maurcy Szpilfogel, now living at No. 18 Avenue Pierre Odier,

Geneva, Switzerland, was born in the Polish town of Piotrkow in 1872." (The town had been spelled in Russian then; Petrokov had been the capital of a province in the Russian empire.) And for the investigator, who hadn't understood Polish, he had told it in German. "I, Dr. Maurcy Szpilfogel was born in the Polish town of Petrikau. The war brought my work to a sudden stop."

Once, just once, they had written the town as he told them to write it, in Polish — *Pjotrkow*. But what was the difference? He was used to "interrogations" and he would never go back to Poland anyway.

Let me explain that, amongst other things, I possessed three houses; my estate at Wola which I, together with my brothers and sisters, inherited from our father, also a house in Warsaw and an estate at Orwick which I had turned over to my sick son. When the Germans crossed the border, I fled first to my brother's house at Orwick and later to my own house in Warsaw. In the cellar of my house in Warsaw, I had stored part of the dyestuffs manufactured in Wola. It was then in September 1939 that Schwab and Schoener visited me in this house. After introducing themselves as I.G. commissioners, they stated that all my dyestuffs were confiscated, and all my houses. They prohibited my use of any article in any of these houses. They confiscated my cars. The dyestuffs were then put under seal.

In accordance with the German "laws" then in existence, the "trustees" were permitted to allot 500 Zloty per month to the Jews who had been robbed of their property, and for each family. But Schwab allotted only 500 Zloty for all three families, that is, for myself and my wife whose aged mother was still with her, for my married daughter and her husband, and for my sick son who was in a sanitarium. Then I had to pay 150 Zloty to I.G. for so-called rent; even one family could not live on the lowest standard on only 350 Zloty a month.

Soon the allowance was stopped altogether, and Szpilfogel and his families were shunted from one place to another in Warsaw. In the first year of the occupation, they were not in constant mortal danger, though "even so, street raids took place and even then there were 'interrogations' which consisted in shooting the Jews."

Q. Now, in your affidavit, you stated that Schwab was particularly rigorous. What did you mean by that?

A. Schwab, whom I knew personally, I expected better treatment from. And when my wife also asked him — as a matter of fact, I was even angry with my wife because she wept when she asked for better treatment from him — I told her, "Don't be so subservient, and don't show your tears to an enemy." We asked him that he should do something for us, since we were suffering great hardship.

But Schwab had done nothing, and in 1940 when the infamous Warsaw ghetto had been established, Szpilfogel and his family were moved there:

I wrote to Mr. von Schnitzler from the ghetto. I knew Director von Schnitzler personally since we had met frequently in Warsaw and we were on very friendly terms.

Q. At that time, was it still possible to receive letters in the ghetto?

A. At that time, yes. That was the beginning of 1941. The letter was a cry of distress:

Your kindness, with which I am familiar, encourages me to contact you with the request that I be permitted to move with my family to an appropriate apartment at my residence and place of birth, Wola, and to obtain permission to work in the industrial plant Wola, of which I am a part owner, in order to be able to exist. As my son is ill in the hospital, I respectfully request that it be rendered possible for him to receive monthly payments on his credit account with the chemical factory Wola. The same for my daughter Hanna, who has a substantial credit with the chemical factory Wola. Hoping that you, dear sir, will conform to my wishes . . .

The letter trembled on Szpilfogel's lap; in his hands was Von Schnitzler's letter to Schwab:

Dr. M. Szpilfogel has sent me the enclosed letter dated 16 January. This constitutes a part of the duties which fall on you as a result of your appointment as a trustee. I must, therefore, leave it entirely up to you to do what you see fit in this matter; I refrain from taking any position on my part. You will be good enough to advise Dr. Szpilfogel directly of your decision.

I never received any answer to my letter. The ghetto was ostensibly administered by its inmates; the purpose of this was to force the Jews to introduce the measures which were intended to lead to their extermination. When the liquidation of the ghetto had begun, it was the task of the President of the Jewish Council, amongst other things, to segregate, by order of the SS, a certain number of ghetto Jews — to begin with, 5000 — and to have them taken to a collecting point in the ghetto. The inhabitants of the ghetto were given to believe that they were being allocated to farm labor. When the President of the Jewish Council received the order to send 10,000 instead of 5000 of his co-religionists daily to their deaths, and since he had in the meantime realized the true character of this segregation, he wrote a note refusing his co-operation and poisoned himself.

The Germans then undertook the collection of Jews intended for extermination by having single houses, blocks of houses, or whole rows emptied, ordering everyone to concentrate on the street which was surrounded by soldiers. Anyone who went back into the house was immediately shot. Those who had been collected in the street were taken to the collecting point, loaded on trucks, and taken to meet

their fate. My wife and children went out onto the street one day and never came back.

One day in July 1942 it was the turn of my block of houses and I had to go down into the street. The column of people thus segregated was accompanied by carts onto which were loaded the sick, the halt, and the lame, and those who were close to collapse. Under the pretext that I wanted to travel on one of these carts I was able to leave the crowd surrounding me and to reach the cart. I fully recognized that I was in danger of being shot on the spot. At one of the earlier collections a small boy who had hurried towards a cart had been shot to death that way. On reaching the cart I discovered an open house door through which I managed to escape. I hid for some time and then returned to my empty house in the ghetto. The Germans sometimes raided the already empty houses. My brother, together with his whole family, consisting of his wife, his daughter, his son-in-law, and his small grandchild, had lost his life in this way. They had at first successfully left the column on its way to the collecting point, but they were discovered during a subsequent raid.

When the Germans were again approaching my already empty house I climbed onto the roof and hid there until they left. In this precarious situation I received the aid of my ex-janitor who had established connections with smugglers by giving them various presents. Risking their own lives, these smugglers provided a ladder for me and at night helped me to climb the wall which separated the ghetto from the Christian part of Warsaw. There I received a forged passport and spent the next two or so years hiding from place to place in Warsaw but mostly on the roof during all those months. From my shelter on the roof, I watched the burning of the ghetto in the days of its final annihilation in the spring of 1943. . . .

Szpilfogel was more than a rare survivor of the Warsaw ghetto. The Farben robbery had been mysteriously intertwined with the Nazi invasion, and his family and his partners had been murdered as a result. In a querulous voice, Dr. Szpilfogel led the way back to the days before the Nazi armies struck.

During the summer, while Von Rundstedt and Von Bock were deploying the German legions on the frontier, I.G. Farben agents hurried in and out of Poland. In June, their travel across the border had become a trickle. And on July 28, 1939 — one month before the outbreak of war — the *Vermittlungstelle Wehrmacht* in Berlin presented to the German government a long-prepared survey of the Polish chemical industries, brought up to date by the latest "sales campaign," which, oddly, had produced no orders at all!

This survey was called "The Most Important Chemical Plants in Poland." It set forth detailed charts of facilities, biographies of the plants' directors and owners, and — most significant — a metic-

ulous study of how these plants could be adapted to the "war economy." The survey also gave powerful military reasons why Farben should be declared chemical boss of Poland.

A company called "Boruta" was Poland's largest manufacturer of coal tar and intermediates. When the invasion came, Farben representatives were on the spot at Boruta before the plants fell into Army hands. Then Von Schnitzler went to Poland.

Before Lodz, let alone Warsaw, was conquered, the Baron had quickly inspected Boruta. He also looked over the three other vital dyestuffs firms — at Wola, Pabjanice, and Winnica. He reminded all managers that they now resided in "the former Polish state." Using Farben's quiet occupancy of Boruta as his strongest argument, he wired a subordinate at Berlin Northwest 7 to prepare to negotiate with the Nazi Ministry of Economics:

On any condition the stocks should be used by experts in the interests of the German economy. Only I.G. is in a position to provide such experts. We would be prepared to delegate for this business Mr. Schwab, the leading director of our East European dyestuffs sales department. . . . We intend to present ourselves in the middle of next week to the competent authorities in Berlin for further deliberation and beg to arrange a meeting for that purpose. Our Polish representatives . . . are, in the meantime, of course, at the disposal of the military and governmental authorities for advice.

This "bid" of Von Schnitzler's was telegraphed to Berlin a week before there was any German civil administration in Poland.

The director Paul Haefliger arranged a meeting with the Reich Economic Ministry. This was when the government asserted that they saw no need to appoint commercial controllers or technical experts. Undaunted, the Farben representatives informed the Economic Ministry that Dr. von Schnitzler himself would reopen discussions within a few days.

Meantime, in Poland, Von Schnitzler suffered another setback. One of the coveted companies, Pabjanice, was wholly owned by a concern in neutral Switzerland. Anticipating his meeting in Berlin, Von Schnitzler wired the Swiss owners that he would be happy to contact the German authorities about "safeguarding your Polish dyestuffs factories." The Swiss parent company saw through the subterfuge. They wired back:

We beg you to take notice yourselves and also for information of your Government that Pabjanice is . . . a Swiss undertaking. Expect

therefore that compulsory measures of any kind will not be taken against our enterprise. Have approached our Federal Government.

Switzerland's value as a clearing house of foreign exchange for Germany was too important to be endangered. Von Schnitzler let plans for that company drop.

In trying to grab the other companies, Von Schnitzler met the government opposition cleverly. He did not seek immediate control; he suggested that the Economic Ministry appoint Farben men as "trustees for the Reich," with authority to "continue the works or to close them and make use of the stocks of raw materials, intermediates, and finished products." Von Schnitzler pointed out that 85 per cent of coal tar and intermediates produced by Farben for the Nazi war machine came from Ludwigshafen in western Germany. Strategy demanded that Farben find safer eastern plants such as these in Poland.

Still, the Ministry of Economics would not appoint Von Schnitzler. On September 29 they did appoint two less powerful Farben men as commissars of the three dyestuffs companies. The Ministry made it clear that these men were hired to act as "Reich trustees," but immediately the I.G. *Vorstand* referred to the two as "Farben trustees." These were the men, Schwab and Schoner, who had come to call on Dr. Szpilfogel.

With Farben men in the three strategic companies, Von Schnitzler directed an all-out campaign to acquire lesser Polish firms. Reports had come in that there were several chemical plants at Poznan, Poland. Von Schnitzler's lust for plunder was not appeased for want of a name. The minutes of the full commercial committee in October stated that a Farben lawyer, Diessmann, "on his way back to Warsaw, will be directed to call at Poznan on the Chief of Civil Administration, to 'clarify' the appointment of a trustee for the biggest chemical industrial plant there — which plant involved is not yet known."

Then, in November, Karl Wurster took a trip through conquered Poland to inspect smaller independent companies. In most cases, Wurster urged that equipment and installations be dismantled and brought to Farben's home plants. Immediately and without permission of any Reich representatives, Farben began taking the equipment back to Germany — then billed itself, with the German government as creditor.

Von Schnitzler redoubled his efforts to convert the "Farben trusteeships," as he referred to them, into monopoly-thefts. He concentrated first on Boruta. The Economic Ministry still would not sell. Von Schnitzler pressed for a lease. Late in 1939, the Reich agreed. During the lease negotiations, the Reich gave in altogether, agreeing to consider an outright sale.

Though the sale was not to be consummated until February 1942, Farben would remain in control of the Boruta properties until that time. Boruta, with all movables and immovable supplies, plants, premises, and buildings, was transferred to a corporation organized by Farben. The Polish owners got not a cent for their property. Everything was taken over but the debts:

Subsistence allowances, annuities, and similar payments for which Boruta is responsible according to earlier contracts with employees, or other agreements dating from Polish times, especially payments out of the so-called savings fund, will not be taken over by the purchaser.

Why were such elaborate paper formalities needed for the Nazi government, which had robbed the property, to make an illegal sale to Farben, which had planned its own theft years before? The answer was doubly ironic. Farben wanted a contract legally acceptable to the Reich, under which Farben could insist that the Reich do what it had agreed to do. Also, the Farben men on the spot in Poland told Von Schnitzler they were doubtful about the transaction; therefore, the Boruta agreement was drawn in an attempt, undiscerned by the Nazi government, to rid Farben of responsibility should the crime be brought to justice.

Dr. Szpilfogel was tired. The proof was overwhelming, yet quite suddenly the defense was asking him questions that had nothing to do with the charges. The court let it go on:

Q. May I ask when you left Poland?

A. In the middle of April last year.

Q. You still own real estate there?

MR. SPRECHER: May I ask counsel to state his purpose?

The purpose was to find out why Mr. Szpilfogel had moved to Switzerland.

Sprecher repeated his objection, but Szpilfogel answered anyway:

My factory was destroyed, and I have nothing to do with my factory any more in Poland. I went to Switzerland to recuperate.

Q. You owned the land before, didn't you?

A. Yes, I was the co-owner of this estate. The other partners were murdered.

Q. This estate, wasn't it confiscated? Isn't it also important that (last year) you no longer had any right of your land in Poland any more?

MR. SPRECHER: I think it is patently clear why this question is being asked. Whether the present Polish government has confiscated this property seems to me to have no relevancy. We think it is completely incompetent, but if counsel wants a stipulation, we will state that the present Polish government has nationalized the chemical industry of Poland.

13. Without Armies Marching

WHILE SZPILOGEL WAS ON THE STAND, I had been pondering again just how the Farben robberies could be considered part and parcel of international conquest.

What had happened in Poland could happen anywhere in the world if the use of force between nations and the peoples of nations was not checked by law. Once armed force had been used — once a country had been invaded and exploitation had begun — it would be too late for the law to do anything about it. The realm of legal action lay in the atmosphere of overwhelming imminent threat just before the armies marched.

The defendants had threatened all the Polish industrialists. That was clear. Even before they stole Szpilfogel's Wola, they had planned to steal the firm of Winnica at the point of a gun, and they had used that threat before the armies marched.

According to the Polish government records, as late as June 1939 the firm of Winnica was owned, lock, stock, and barrel, by a French firm. Unknown to the Poles, Farben and this French firm had planned Winnica as a joint enterprise from the beginning. But the Farben half was hidden because Poland, learning a lesson from the years before World War I, had forbidden German firms to participate in Polish enterprises.

Then, during the tense summer of 1939, Von Schnitzler opened fire on the French interest. Farben "in effect," he said, was the sole owner — the inference being that "political events" would turn over the other half to Farben.

The robbery of Winnica was a menacing contribution to the coming war against France. Then, although two years would go by before Farben could persuade the French owners to sign papers giving legal semblance to the claim, Farben operated Winnica for the Nazi war machine, and halted all shipments to France even before the Germans invaded the Low Countries.

Now at last the Farben plunderings appeared not separate crimes but a country-to-country chain of robberies.

Two years before the Anschluss: the defendants were using the threat of Nazi arms to conquer the Austrian chemical industries. The foundation of Donau-Chemie in Austria had paved the way for further penetration into southeastern Europe.

Before the Munich Pact: from Austria they had robbed part of the Czechoslovakian chemical industry and had halted all shipments of arms to the Sudetanland. And even before then, when Haefliger returned from Vienna with the first sad news that the Austrian chemical industries would resist, Von Schnitzler had prepared a monograph on the structure of Prager Verein and a plan for Farben to seize its plants if and when Hitler marched. In robbing Prager Verein, Farben first robbed the Belgian interests of their share, then stopped all arms shipments to Belgium!

Then: Poland.

A chain of events in which each link was precision-made. Should international society be any more lenient with men who had exploited the economies of whole countries, aiding and abetting the suffering of millions of people, than any local community was toward the robber who held up the owner of the corner store, took his money, and killed him in the course of the robbery? It was, I thought, one element of a very persuasive theory.

I left the Palace a few moments before adjournment, and Sprecher caught up with me in the street. Rather, he passed me with a brusque hello and strode on a few steps before he turned and did a double-take. "Oh — Joe!"

I spoke enthusiastically about the theory. He nodded absently, striding a couple of paces ahead of me. I called him back and made him listen.

It was no good, he said, developing *pertinent* theories while the court remained interested in political and military situations quite beyond the evidence. I didn't take this so seriously. "It doesn't matter to this case what happened to Szpilfogel's property later.

Even if the Polish nationalization was a crime exactly like Farben's crime, it's no more relevant than if a robber defends his plundering of a house in Camden, New Jersey, by contending that on the next day another man entered and robbed the same house. The court did go along with your objection."

"I had to object twice before I was sustained," he said.

I laughed. After all, the Tribunal may have been just curious: You could not overlook the flexing of Communist muscles in Prague; every day for the past week, there had been agitation there. It would be natural for the judges to be curious about what had happened, under the Communist regime, to Szpilfogel's land.

"So what?" he said. "I am curious about how many bananas they grow in Costa Rica, but I don't drag the issue into the courtroom."

After we went into the Grand Hotel, Sprecher felt no better. He was too busy pacing to notice the crowd around the newsstand. We carried on a running conversation, from one lobby chair to another, Sprecher always a few feet ahead of me: the first time I saw him in a hurry and getting nowhere. Then a word flew around the lobby like an insect buzzing from one head to another — *Czechoslovakia*.

We went over to the newsstand. Sprecher reached over someone's shoulder and grabbed the *Herald-Tribune*, Paris edition.

It took a while for the shock to lessen. After being forced to stay on in a coalition government, President Benes had lost his voice. Before long, Czechoslovakia would fall to the Communists.

The Marble Room was a chaos of unfinished sentences; drinks were finished, then quickly replenished. Someone on the staff came over to report to Sprecher and me the reaction of one of the judges. The reaction was that the Communist pressure on Czechoslovakia would result in "wanton aggression committed in the threatening presence of the Red Army."

Nearly everybody agreed on that. I told Sprecher to cheer up. If the judges felt this way about the almost-certain fall of Czechoslovakia, how could they rule otherwise in the Farben case? The Soviet conquest of Czechoslovakia "from the inside" demonstrated, it seemed to me, the very essence of our theory. So far as we know, not one Russian soldier had set foot in Prague; but the fact that the Russian Army would not actually cross the borders and would merely stand by — clearly ready to do so at any minute — was hardly a justification for the conquest. A robber who holds up a bank and gets away with his loot without firing a shot would find

it hard to make anyone believe he obtained the bank deposits as a gift.

In our case, the prime robbery was a *national* program of aggrandizement at the expense of the peoples of other nations. As for the defendants' part, was it necessary to show that they knew with absolute certainty that the weapon would be fired? If it was proved that they had participated substantially in preparing the weapon, and that they knew it would be used in the holdup as a threat, was that not enough to prove their guilt as participants in the resulting crimes?

Then, not only would the men who set the date of attack be criminally responsible for it. No longer would war await the first bombing to be called "war." Anyone — be he Harry or Hitler, Stalin or Ivan — who prepared the threat of war to the very brink, knowing the *threat* would *surely* be used for conquest, was guilty of aggression.

Sprecher shook his head. "It's very logical, but I don't have very much faith any more that logic will win this case."

The next rumor carried an impact that might prove him right. Call it a fact rather than rumor, for everyone in the room must have been thinking it.

Czechoslovakia was soon to succumb to force, obviously directed from Russia. Here we were trying to convict the Farben leaders of aggressive war under a statute enacted by four governing powers — one of which was itself engaged in aggressive acts at the very time the trial was in progress!

Legally, this argument meant nothing. The lawmaker is as subject to the law as anyone else. The fact that the lawmaker is not caught and tried today should not affect those who have been caught and are being tried. Certainly no one would seriously contend that the world had reached a state of anarchy, that even the few established international principles of law were of the past. If our trial did not confirm this theory — that the threat of force is equivalent to force — the future, too, would be without an effective precedent.

"I know," Sprecher said. "They ask for a theory, and we give them one that could mean something. But, mark my words, whether they say it or not, they will feel this way: 'If a trial couldn't stop the Communists in Czechoslovakia today, what good is it to harp about yesterday?' And that is precisely what all good Communists would like them to think."

The band chose this moment to repeat a custom we had hitherto found amusing. When we first came to Nurnberg, "The Star-Spangled Banner" was played in the Marble Room once or twice every evening. About a month before, the anthem had been replaced by two other songs. Now "Dixie" was being played; about fifteen people jumped to their feet and stood at attention, while about forty others rose and tried to drown out the band by singing "Yankee Doodle." Then the band struck up "Yankee Doodle," and the two factions sang against each other. It was a silly thing to get wrought up about. One recent war buried too soon was enough, without thinking of a still older war whose resentments had never been accepted or understood.

Yet during the next few weeks, that mood returned — was World War II buried too soon? The easy way to put it was that, if this case failed, we would be fighting Communism by supporting Fascism. The Cold War was growing hotter; Nurnberg was growing more untimely, and stuck away on a back page might be the report that the fast color of freedom was fading. I didn't believe it. Nor had I believed it as we had left the Grand Hotel that night. Sprecher hadn't either; suddenly the whole thing had reminded him of the Harvard and Yale student bodies trying to outsing each other across a football field.

As we went on with evidence of Farben's role in enslaving the people of Europe, we emphasized that this role was part and parcel of an over-all program resulting in the death of millions as a result of the aggressive war unleashed by Germany, in which Farben shared a major responsibility. Hand-in-hand with the conquest of basic industries was the conquest of labor to make these industries work for the expansion of a war which had been brought on by prior conquests of industry and prior exploitations of labor.

The prosecution rested. The newsmen, uncertain on some facts, didn't rush to telephone across the Atlantic that our *prima facie* case was in.

No gavel sounded the interval between prosecution and defense. Some documents awaited translation. As for those that were clear on the record, the court still appeared a little bewildered.

There wasn't much more time in which to prove that our proof was indeed proof. On the day we wound up our case, the defense asked the Tribunal to dismiss the aggressive-war count.

The trial was truly in danger. Encompassing all the other crimes

was the supreme crime of preparing and — step by step — waging an aggressive war. In the fullest understanding of the evidence, all counts led to war. But our story was more complicated than the evidence against Goering and Rosenberg and Streicher heard by the International Military Tribunal.

Fortunately, over a month before, after my return from Prague, the Tribunal had asked for some special “theory” to help them appraise the evidence, and the staff had given the matter some thought.

In asking the court to toss out the defense petition, we went back to first-year law school. *What is a crime?* If I climb up to my neighbor’s window intending to kill him, then shoot by mistake into an empty bed, I am only half a criminal. I had a murderous state-of-mind. There was no act of killing.

Or, suppose I am playing with a gun, and it goes off accidentally and kills my neighbor. There is the act of killing, but no intention to kill.

What is a crime? We began our reasoning to the court:

In international law, as in domestic law, criminal liability requires two essential elements — *action* and *state-of-mind*. This court is being called upon to enforce the doctrine of international penal law — born centuries ago, accepted by all major nations after the first World War, and first judicially applied by the International Military Tribunal — that the deliberate planning and waging of aggressive war is a crime.

In applying this doctrine here, it is the high duty of this Tribunal to ensure that it is neither extended beyond the bounds of justice and hard common sense, nor contracted into a fleshless legal stereotype of no real meaning in these restless times.

As to the requirement of *action*, we have suggested that it is necessary to establish substantial responsibility for activities which were vital to building up the power of a country to wage war.

As to *state-of-mind*, it is our opinion that there must be a showing that the defendants *knew* that such military power would be used to carry out a national policy of aggrandizement to deprive the peoples of other countries of their land, property, or freedom — in short, a policy of conquest.

But again the court side-stepped a ruling. After the marshal had dutifully asked God to save the United States of America and this honorable Tribunal, the Presiding Judge said:

I think counsel can see that we might find ourselves in a most embarrassing position ruling on the sufficiency of the prosecution’s evidence before we know what it is. Further, the Tribunal would not

want to find itself in the position of ruling . . . so long as the door has not been closed on the prosecution’s case. [*A few prosecution witnesses had not yet been heard by special commissions appointed to take their testimony.*]

Yes, the prosecution would have more to say. In many ways our job was only half done. There remained the task of breaking down the defendants’ testimony. For this purpose, we had saved some “hot” documents, and our investigators would search for other documents until the trial ended.

But we believed we had established every single crime recited in the indictment, although not as conclusively against some defendants as others. The record held hundreds of documents proving that the defendants’ part in Germany’s war was highly responsible and vast in its scope. Their plunderings were shown in extraordinary detail. Their slave-labor activities were so widespread that even a brief discussion of all our proof would take volumes.

And we had wrapped up all these crimes into a package whose string lay untied.

There was the rearmament. Then there were the country-to-country robberies, charged as separate crimes. Property is the wherewithal by which, with private or public enterprise, a community sustains the life of its citizens. While we had proved the harm done the individual owners, our main purpose was to emphasize the exploitation of the conquered country’s economies and the plunder of their industries. Then the cancerous production necessities of an ever-growing military machine, and the sheer lawlessness bred by the whole program of conquest, reached their pinnacle in enslavement, torture, and murder.

I have set down so far only a smattering of our proof of all this, leaving much to come from the defendants’ lips and the judges’ reactions.

The Presiding Judge’s ruling was so equivocal that, every morning for many months, we would wake up wondering whether most of the case would be thrown out of court. The door would swing back and forth; the burden of proof would seem to shift, as it had, with every change of subject, as in a family quarrel. This was no normal trial.

“We have reached the stage,” announced the Presiding Judge, “where the order of business is somewhat reversed. . . . The defense may proceed with its case.”