REVIEWS

THE TIME FOR DECISION. By Sumner Welles. New York: Harper & Bros., 1944. Pp. vii, 431. $3.00.

U. S. WAR AIMS. By Walter Lippmann. Boston: Little, Brown & Co., 1944. Pp. viii, 235. $1.50.

WOODROW WILSON AND THE LOST PEACE. By Thomas A. Bailey. New York: The Macmillan Co., 1944. Pp. viii, 381. $3.00.

THESE three books about recent diplomatic history are part of the great public debate which will help to settle the immediate controversies of our foreign policy. Each attempts to draw lessons for the future from what it treats as the mistakes, and successes, of the last thirty years of our behavior in the international community. Each is primarily concerned with certain of the large decisions which the government of the United States will have to make: whether to help build, and then join, a new League of Nations; whether to maintain our wartime alliances and associations; and how to treat Germany, Japan and our other enemies. These are the first questions of our times. Their resolution will fix the course of our foreign policy for a generation, and establish the framework within which we can pursue domestic social, political and economic goals. How they are met will determine the fate of the Republic. In that sense these are desperately popular books, and it may not be altogather inappropriate for them to be reviewed by a lay reader, rather than a professional historian.

One striking quality of our thinking about the problems of war and peace marks all three of these books. To an extraordinary extent, the issues have been framed for us by the experience of the last war. In a sense, we have been reliving the years between 1914 and 1921, Allies and Germans alike. For some purposes, this has been a useful psychological fact. Fortified with the thought of history repeating itself, the British did not despair in 1940; nor did the Germans ever quite escape an uneasy sense of their doom. Even in the middle of 1942, we never seriously contemplated the possibility of losing the war. Now, facing the peace, we find that the debate of Wilson and Lodge, of President Taft and the elder La Follette, is still going on. We are greatly concerned, perhaps too greatly concerned, with Wilson's tactics and Wilson's points—his failure to consult the Senate in advance, his offer of a military alliance to France, the constitutional problem he provoked about the President's power to use the armed forces, whether the new League should or should not be part of the Peace Treaty, and so on.

Wilson was a very great prophet, but a poor negotiator and political leader. Wilson's eloquence, his religious ardor, his legend, and above all his forceful and misleading formulation of the issues, are proving on the whole to be a handicap to serious thinking about the problems of our foreign policy. Wilson should be taken as the heroic symbol of a basic axiom of our foreign policy, not the spokesman of a detailed program. The doctrine for which he stands, broadly speaking, in the public mind today,—and on this point our people are now disposed to agree that he was right—is the doctrine that in the modern world peace is indivisible, and that the United States has a continuing and responsible national interest in preserving it. This Doctrine should be considered with the Monroe Doctrine as an enduring cornerstone of our foreign policy, and it might well become known, by analogy, as the Wilson Doctrine. Beyond that broad proposition, however, it is unnecessary and even dangerous to follow Wilson too closely. Times, forces, and problems have changed. And even for his own times Wilson was not by any means a leader without blemish.

The incubus of Wilsonism is the main subject matter of these three books.

Mr. Welles' important tract is in part a memoir of his experience as Under-Secretary of State, in part a program for the development of a continuous and consistent American foreign policy. Written with color and passion, it strongly presents the case for a Wilsonian approach to the problems of peace. It digresses at some points, notably in its extended treatment of Pan-American problems, and it pays off some personal and professional scores, with compound interest. But in the main it is an essay on the problems of Versailles, reviewed and brought up to date in the light of our subsequent experience. Starting with a balanced and concise analysis of the issues before the 1919 peacemakers, it considers the diplomacy of the period between wars, reports on Mr. Welles' 1940 mission to Europe, and, in a useful last chapter, lists the main elements and objectives of an enduring American foreign policy. Mr. Welles urges an immediate beginning on the task of organizing a new League, and the creation of our ultimate security arrangements through it. This association, however, must not "come suddenly into being as a completed and detailed international charter." It must be rather a gradual growth, based on experience, and sustained in its earlier period of life by the vigorous continuance in peacetime of our present alliance for carrying on the war.[1]

Unlike many commentators on the problem of our security, Mr. Welles does not evade the essential condition precedent to the success of a new League—the question of how German territory shall be politically organized. He dismisses the casual and superficial plan of restoring the *status quo ante* 1939. He strongly supports the policy of undoing the German union of 1871, and of partitioning Germany into separate states. Through these states the German people could quickly resume a profitable participation in the political

1. WELLES, THE TIME FOR DECISION (1944) 370.

and economic life of Europe, without constituting a military threat to anybody. This approach to the German problem offers the United States a maximum chance for its security during the next fifty years.[2] In this and other important particulars—notably on the maintenance of international staff arrangements—Mr. Welles differs from Wilson, but the conception of policy he advocates is Wilsonian in its broadest and best sense.

Mr. Lippmann, the most useful and responsible of our war-time journalists, has written a cogent pamphlet which in many ways complements Mr. Welles' book. In broad strokes, and with admirable balance and perspective, Mr. Lippmann sets out the political and strategic factors which twice in this century have led us to fight for the system of power on which our safety as a nation depends. From this analysis, he develops a program through which our foreign policy might well hope to consolidate and secure the peace—a program of close association with Britain, France and the other nations of the West, in an "Atlantic Community" which would remain closely linked, both through direct coalition and through a new League of Nations, with like regional communities centering in the Soviet Union, China, and ultimately in the Moslem world. The new League would not have primary responsibility for keeping the peace. Such a view of the League's functions "will fix the responsibility where alone it can be discharged—upon the governments of the great powers and their neighbors with whom they are allied. There will be no pretense, and no escape by means of the pretense, that the responsibility for preventing war is anywhere else than where it really is: in the great military states themselves."[3] Mr. Lippmann professes to be anti-Wilsonian in outlook, and his prescription of what should be done to keep the peace purports to differ profoundly, in procedure at least, from the course of action proposed by Mr. Welles. When compared in detail, however, the differences seem illusory. The actual programs of the two men are not far apart.

Professor Bailey has written a clear, if academic, analysis of what Wilson did at Paris, with a view to instructing us as to Wilson's errors, and those of other men. It is a convenient review of what happened, and an interesting case study in why American youth has been so badly educated on the basic problems of American security. Careful and workmanlike in detail, the book never considers, nor even presents, the fundamental system of ideas which dominates it, and gives it shape. These ideas emerge in asides, and in the

2. It is a paradox that Mr. Lippmann's book, so clear in its perception of the power foundations of political order, is weak in its prescription for Germany. His program would leave a vengeful, strong Germany a good fighting chance to divide the Russians from Britain, France and the United States, and permit Germans again to dream of achieving the condition of 1939—Russian neutrality during a German war against the west. One may assume that even German militarism has learned that war in the East cannot pay. See also HOW TO END THE GERMAN MENACE, A POLITICAL PROPOSAL, BY FIVE HOLLANDERS (1944).

3. LIPPMANN, U. S. WAR AIMS (1944) 168-169.

interstices of the chapters. Together, the asides constitute the most dangerous of all the Wilson legends: the Ray Stannard Baker thesis, recently revived by Mr. William Bullitt and others, that Wilson was forced by "power politics" in Paris to compromise with his principles, with the result that the Treaty became an unjust instrument for oppressing Germany, and therefore "caused" the present war. If Professor Bailey devoted one quarter of the attention to the fallacies of this thesis that he gives, for example, to the controversies at Versailles over Fiume or Shantung, his book would have been a great deal more intelligible. and useful.

In essence, all three books grapple with this same general issue, which is perhaps the worst single aspect of our Wilsonian legacy. The issue is variously defined as a supposed choice between "power politics" and "idealism," between "domination of the Big Four" and "equality for small nations," between American virtue and European vice. The words and ideas get almost hopelessly enmeshed with American insularity, smugness and xenophobia. They become the crocodile tears of our isolationists, who urged us to ignore the fall of France, and now weep over the fate of Estonia. They provide one of the last arguments of the isolationists, in the form of the doctrine that we should be too proud, as we are too pure, to become entangled in the dirty power politics of the world—a curious and extraordinary idea to prevail among Americans, whose domestic politics have always been human, not to say earthy, in their practical compromises and adjustments. It is an extraordinary idea in another sense as well. The course of world politics has always involved the United States in general world wars, and presumably always will. It is hard to understand how we can be expected to look after our vital national interest in controlling this phenomenon by ignoring the political events which govern it.

However, the issue is planted deep in the public mind. Mr. Welles and Mr. Lippmann, as well as Professor Bailey, have hard words about "power politics" scattered through their books. The phrase is hard to define, because the supposed choice between power and other kinds of politics doesn't exist. What alternative basis is there for political action, short of natural or canonical law? How can the rules, customs and legal norms which govern the use of power conceal the fact that power is the final constituent of social organization, and that the main preoccupation of law, municipal and international, is to control the exercise of authority in ways which fulfill accepted social and ethical purposes? The uses of power are governed in each case by the whole content of the culture in which men assert their authority. However much the exercise of power is circumscribed by history, courts, elections, or other mechanisms of control, there is no evading the fact it is power we are talking about, and power which has the last word. Nothing can alter the fact that there are large and small states, states with and without military power. Power is exercised differently by different countries, according to their cultural habits, just as the ultimate police power within a state is differently used in Switzerland, say, and Roumania, in Georgia and in Vermont. Canada, the small neighbor of a great power, faces different military risks than Belgium. The imaginary alternative between power and another basis for political action is false, and the prevalence of the idea conceals and confuses real issues.

Nonetheless, the idea does exist and must be dealt with. It makes two main appearances in the books under review: one in considering what was done at Versailles, the other in discussing how a new League should be organized at a new Versailles.

What people generally mean when they talk about "power politics" at Versailles in 1919 is quite specific, and generally speaking quite mistaken. The phrase is used broadly to characterize the view that Wilson's error at Versailles was his undue concession to European "power politics," which chiefly means European fear of renewed German aggression. It assumes that the enduring weakness of Versailles was the abstract injustice of the settlement with Germany, in violating the principle of self-determination, rather than our failure to build on, enforce and modify the settlement in the light of events. As Mr. Lippmann points out, it is a great mystery why Americans feel so deeply about self-determination in Europe, since we fought a bloody war, and imposed a harsh and punitive peace after it, to stamp out the doctrine among ourselves. Yet such a view of the Versailles conference is widely held in this country. It accepts the main argument of twenty years of German propaganda, and assumes that the "injustices" of Versailles were an important factor in Hitler's rise to power. It leads to the conclusion that the way to prevent another Hitler from coming along is for us once more to fight bitterly with our Allies at the peace conference, as Germany's advocate, to obtain a soft peace. Mr. Welles, though he repudiates this tendency at one point,[4] is not altogether free of the conviction that the chief sinners at Versailles were British and French, and that we must be on guard against their successors. Professor Bailey, of course, supports this doctrine with uncritical faith.

It is one of the greatest merits of Mr. Lippmann's book that he tackles the myth head on. Looking back, it seems perfectly plain that what turned out to be the disastrous difficulties of Versailles were not Wilson's concessions to Clemenceau, but Clemenceau's concessions to Wilson. The size of the reparations bill, which Professor Bailey calls the greatest of Wilson's errors, proved to be a nuisance, and caused bitter hard feeling among the Allies, since Wilson and his successors refused to link the war debts' question to that of reparations. But Germany received four times as much in loans as she ever paid in reparations—and then defaulted on the loans. In any event, reparations were abolished for good in 1930, three years before Hitler came to power. They can hardly count as a substantial cause of Hitlerism and the war, except in helping to weaken the coalition which might have prevented war.

4. WELLES, *op. cit. supra* note 1, at 11, 17.

No, the 1919 decisions which turned out to be catastrophic were quite different: our failure to support some form of international military staff organization; our failure to ratify the treaty of alliance with France, with which Wilson horn-swoggled Clemenceau out of a Rhenish republic; our resistance to all serious proposals for partitioning Germany, or even encouraging German separatism in Bavaria and elsewhere. Nothing is more striking in the literature about the peace than reiterated British and American complaints about the tiresome and long-winded French delegates. Poor Frenchmen! They went on and on, with their orderly speeches and their eloquent perorations, because they knew they were right, and knew that they were not persuading their Allies. They thought we would see the point if exposed to enough logic. Fortunately or unfortunately, logic is not the life of our foreign policy. Bonsal's rueful note is the best comment on the phenomenon: . . . "whenever the French plan of putting force behind the League was projected into the discussions it was warmly, if but briefly, supported by Dmowski (Poland), Vesnitch (Serbia), Kramár (Czechoslovakia), and Hymans (Belgium) . . . . When the meager sop of consolation (Article IX) was handed out Dmowski said sadly: 'I had hoped that our distinguished and most welcome visitors from across the seas, broad as well as narrow, would carefully weigh the unanimous opinion of those unfortunate peoples who dwell so near the cave where the wolf pack lowers." Bonsal appends this footnote: "It is sad to admit that these five countries were the first to suffer from the failure of the conference to take the precautionary measures which they so repeatedly advocated." [5]

Beyond the detailed issues of the 1919 Peace Conference, however, there is a general proposition, put by Professor Bailey in this form: "There are two ways of dealing with a fallen foe. The one is to make a peace so generous that he may forgive and forget. Whether Germany would have responded favorably to such treatment is still a matter of speculation, but there was a possibility that it might have worked. The second method is to impose a victor's peace, with the purpose of keeping the conqueror's heel on the enemy's neck as long as physically possible. This method is certain to breed aonther war." [6] Apart from its extraordinary suggestion that we owed Germany an apology for winning the last war, the notion is so unhistorical, so contrary to common sense, and so plausible as to deserve special comment. The early annexations of Prussia, including those ratified in the victor's peace of 1871, did not give rise to wars of revenge. The French in 1914 mourned Alsace and Lorraine, but hadn't the faintest idea of risking war with the German army to retake them. So do the Danes regret Schleswig-Holstein, and so did the France of the Bourbon restoration look back nostalgically at Belgium. The settlement of 1865 in the United States was harsh and was resented, but it has prevented a renewal of civil war, and in all probability has buried the

5. BONSAL, UNFINISHED BUSINESS (1944) 188 and n. 9.

6. BAILEY, WOODROW WILSON AND THE LOST PEACE (1944) 312-313.

secession issue in the United States forever. This was not a foreordained result, for secessionism and self-determination had flourished in New England and elsewhere in many forms before 1865. We might well have taken the uneasy and unstable course, now accepted by the British, of trying to build a constitution on the principle of voluntary association. The harsh peace of 1865 has worked, as have other harsh as well as mild peace arrangements, when circumstances of power and interest favored peace. The resentment of the Germans against Versailles was one of the latent forces in German life which Hitler exploited, when the depression and the social disorganization of Germany after 1929 gave him his opportunity. That resentment, however, had very little to do with the merits or demerits of the Treaty itself. It was the consequence of defeat, which can be studied in our South, among the Boers of South Africa, the Hungarians, and many other peoples. The same spirit will exist in Germany for several generations after this war, whether the new peace be mild or harsh. Defeat is a traumatic experience with painful consequences, especially for Germans.

The second area in which we are much confused with talk of power politics is that of plans for the organization of a new League. How can we reconcile the principle of the sovereign equality of nations with the fact that states are not equal in power, and that great wars are the affair of great powers, not little ones? Shall we use the rule of unanimity in large decisions, or a simple majority, or the rule of unanimity among the great powers alone? Shall the keeping of the peace be a function of the new League, or of the great Powers through a committee of the League, or of the great Powers apart from the League? Certainly the rule of unanimity was one of the profound weaknesses of the old League, paralyzing its capacity to act. Yet, just as certainly there seems to be something undemocratic or even dictatorial about an arrangement which doesn't give each sovereign nation a voice, and a vote, in the important affairs of community life.

It is on this series of issues that Mr. Welles and Mr. Lippmann seem to be furthest apart, and actually are closest together. Both men agree that regional systems exist, and should be accepted in some form within the framework of a general system of security. Regional systems will permit the solution of most conflicts by the neighbors, large and small, directly concerned. Mr. Welles says that the new League must have responsibiliy for keeping the peace. Mr. Lippmann says it should be concerned in the first instance with the important order of international problems not directly concerned with maintaining the peace—with colonial problems, the advance of science, technology, labor standards, and the like. In his view, keeping the peace is for some time—perhaps a generation—the primary responsibility of the great powers. But Mr. Welles concedes that "the four major powers primarily responsible for winning the war and for preventing renewed outbreaks after the armistice must necessarily assume the basic responsibility for making and carrying out all military decisions."[7] He proposes that they should create a Provisional United Nations Executive Council of eleven, which could act only on a two-thirds vote, including the votes of all four great powers. This council would be a first step towards reconciling two basic problems—the need of the great powers for freedom of military action, and the need for giving full representation and protection to the smaller powers. Mr. Lippmann says what Mr. Welles is too much a Wilsonian to emphasize, although in effect he admits it: that for some time, perhaps a long time to come, keeping the peace, like fighting the war, will be the job primarily of the great military powers. Only the diplomacy and good sense of the great powers can prevent Germany or Japan, or a new aggressor, from gaining military freedom by playing the Allies against each other. "The organized power which wins the war must be used to win the peace. It can bring to an end the frightful wars of our age. If it cannot, then nothing can, certainly not some pale, thin, abstract, generalized blueprint of a mechanism."[8] The new League, in Mr. Lippmann's view, should build its strength and influence as an instrument of consultation and conciliation, first on the essentially non-political issues, later as its powers may grow with success. "We have to reverse the Wilsonian pattern of collective security. We cannot build a universal society from the top downwards. We must build up to it from the existing national states and historic communities. That, I think, is what we must learn from the great experiment at Geneva and from its failure. We have, I am convinced, to learn it thoroughly. For we cannot afford to fail again."[9]

Mr. Welles' view is not substantially different:

> "I have long felt that a major reason for the failure of the League was the fact that the Covenant came suddenly into being as a completed and detailed international charter. It was not a carrying-over into the time of peace of the alliance which had been created during the war. It did not grow gradually as a result of actual experience. Furthermore, because the Covenant came full-grown into being, peoples everywhere were apt to persuade themselves that a final and real peace already existed. It was impossible for their governments to arouse them to the truth that the Covenant was but paper, and would remain so unless each of the major powers was willing to use, if necessary, sufficient armed strength to carry out the provisions both of the Covenant and of the peace treaty itself, especially during the first turbulent postwar years.
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> "After this war a wholly different approach seems indispensable. It is essential that, before the war ends, the United Nations agree to a transition period to follow the surrender of their enemies. Its length would be fixed later by common agreement and would depend on their progress in laying the foundations for a world of peace.

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7 WELLES, *op. cit. supra* note 1, at 372.

8. LIPPMANN, *op. cit. supra* note 3, at 164-165.

9. *Ibid.* at 195.

> During this transition period the United Nations would have a chance to complete the first and most urgent military steps required; to correct the cardinal territorial errors of the past; to carry out such transfers of populations as may be necessary; to conclude the more immediate programs for rehabilitation and reconstruction; and to pave the way for their ultimate assumption of international trusteeship over such dependent peoples as are not yet ready to enjoy the rights of self-government. During this period, as the hatreds and bitternesses engendered by the war years gradually burn themselves out, the United Nations can, little by little, determine the specific machinery needed for a permanent and effective international organization." [10]

Only by facing these facts can we progress towards a system of security in which the luxuries of demobilization, trade, and social progress can be pursued. Slogans about "power politics" and "dictatorship of the great powers" only divert attention from the fact that there are great powers, which must meet their responsibility for peace by using their power. Power must be used wisely, in concert, and after consultation with all concerned; but it must be used, or the peace will turn into an uneasy armistice. If our close association with the Soviet Union, the British Commonwealth, France and China is maintained after the war, as an enduring and living reality, spreading from the military realm to the realms of commerce, cultural interchange, and human association, then the constitutional problems of League-making will be easy matters of draftsmanship and detail. It will not be easy to maintain the alliance. As in 1919, strong forces are at work, playing on irrational and ideological prejudices, to divide the Allies. It will take energy, imagination and statesmanship of a high order to preserve the concert of the Powers. That concert can be preserved, for there are no conflicts of actual interest among the Allies which cannot be peacefully harmonized. All have a common stake in the restoration and maintenance of peace, and in the establishment of effective peaceful methods for reconciling and settling international disputes. In reorganizing the system of world power after the collapse of Germany, ticklish political issues will arise, as was the case after the collapse and partitioning of the Turkish and Austro-Hungarian empires earlier in this century. It will necessarily be difficult to resolve these and the other basic political and economic problems of the world community through the procedure of agreed action. Without that procedure, however, solution would be impossible. Unless a real coalition of the great powers is maintained, as the nucleus of a larger association of nations, League-making will be an empty and sterile exercise, as it was in 1919, and there will be no peace.

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10. WELLES, *op. cit. supra* note 1, at 370-371.

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THE GREAT TRANSFORMATION. By Karl Polanyi. New York: Farrar and Reinhart, Inc., 1944. Pp. xiv, 305. $3.00.

ENGLAND'S SERVICE. By "Sarpedon." London: Macmillan & Co., 1942. Pp. v, 176. 6s.

BUREAURACY. By Ludwig von Mises. New Haven: Yale University Press, 1944. Pp. viii, 125. $2.00.

THE ROAD TO SERFDOM. By Friedrich A. Hayek. London: George Routledge & Sons, Ltd. 1944. Pp. viii, 184. 10s. 6d.

As we move towards a new social order, a stream of books attests the violence of the transition. In the human—as well as the natural sciences—treatise, excursion, broadside is dated. Amid the flood of ephemera which reviewers mistake for durable literary wares, there appear now and then volumes which have meaning for tomorrow. None of these tracts of the times can escape the heated emotional climate in which it is produced; but a small number, however confused the groping, are sincerely concerned to discover the drive, in order that direction may be given, to the course of events. And if a babble of voices, rather than a chorus, marks them as true to their age, they are aids, if not to a clear, at least to a less dim, vision.

A host of volumes tells of countries, movements, incidents; it records phenomena which reveal the age. As large a multitude is concerned with nations, frontiers, mandates, police; they reveal the ingredients out of which the next war is likely to be fashioned. And as many more explain in print how we can get back to where we were before all that was good and established was upset; they expose the state of mind within which we must effect the best truce we can with the tumultuous forces of change. Amidst a deluge of comment, such as no crisis in history has ever before produced, the seminal books stand out sharply.

In all this literature—even in the few writings which excite and provoke—there is a harking back. At all periods of crisis, it is the habit of man to look back to a Garden of Eden, the Golden Age, the good old days. As a variation, our generation puts, not a normalcy of perfection, but one that-all-things-considered-will-do only a few decades back. And it asks, not in dreamy but in practical terms, how the nineteenth century managed it as well as it did. Against this period of violence, "the hundred years peace" from Waterloo to Sarajevo stands out as a lull in secular history. About this problem four men, each conspicuous in his own way among the many who have tackled it, have something to say. Of these, two are Austrians, one a Hungarian, and one an Englishman of Dutch birth and nationality. All four are concerned with what was and where we should go from here. Two of them want to know how we got that way and insist upon knowing where in time here is.

Among the four, the Austrians are most easily put aside. Reviewers have called "the message" of von Mises and Hayek a voice from the grave—and not without good cause. For each finds the key to peace, to progress, and to such prosperity as a little while ago lay upon the surface of things in the separation of state and economy. Each pleads for a return to the Age of Contract, in which a free market was the dominant agency of control and Sir Henry Maine, Anson of contracts fame, and the classical economists were certified major prophets. Granted their premises—which most of us would never do—their arguments are well thought out, deftly rather than soundly reasoned, somewhat aloof from the realities of this world, and elevated to the pinnacle of minor works of art by virtue of unity of structure and a kind of self-contained logic. But the free market they seek to restore never was; so far as it existed, it operated within an institutional pattern; against the currents which move towards collectivism—whether of left or right—it is no more than an utopian dream.

Yet the two books have a place which their critics have failed to accord them. Their vice is a lack of perspective. Neither author is a genetic historian; each attempts, as Charles Cooley once put it, to tell time by the second hand of the watch. A friendly, if somewhat out-of-date, reviewer remarked the other day that it was strange that the two men, who today stand most directly in the tradition of Adam Smith and the Manchester School are Austrians. The relation can not pass without challenge; for Adam Smith reflects his own state of society; and so do Hayek and von Mises—but a very different one. And there is nothing strange to explain; for their views, whatever use they have made of classical economic theory, derive from the contemporary scene. Austrians, as almost no other people, have of late been beaten upon by all the extreme measures which government as lord of the economy has to offer. They do no more than share in an exaggerated form the distrust of the English Utilitarians for the state in the rôle of regulator of trade. And each, using a technical equipment which within its narrow limits is quite competent, has given literary play to his own emotions. As a result the two books are superb historical documents, polemical phenomena thrown out by a great cultural upheaval. Although neither is able to diagnose, much less to prescribe for, the lapse of a culture from what it was thought to be, each indicates the move towards the union of state and economy—for which in thought we are quite unprepared—as the dominant problem of our time.

The other two, a Hungarian and an English-alien, possess what the Austrians lack—a sense of time and a feel for the social process. Whereas the free market is to the Austrians the order of nature, save that men may corrupt it, it is to "Sarpendon" and to Polanyi a historical fact. Polanyi stresses the dominance of the market economy as a brief and strange event in the annals of mankind; Sarpedon makes it a result of England's conscious policy, shrewdly conceived and brilliantly executed. Each concurs, at least for the nineteenth century, in the result reached by the Austrians; the separation of state and economy was good; even more, it was essential within the conditions then prevailing. The two differ from the Austrians in insisting, not that the free market maintained industrial order, but that the absence of the state left the economy to be operated by agencies and through techniques shaped to the requirements of the task. Again, like the Austrians, Polanyi and Sarpedon demand a separation of state and economy; and, unlike them, decry a return to the free market as the instrument of reform. In its stead they put the case for the politics of industry, though they do not agree upon what sort of an economic state it should be. We must have questions before we can contrive answers; and the differences between them—as well as from the Austrians—touch off a lively docket.

Polanyi is fascinated by that curious historical phenomenon "a free market." He recites the detail of how it was established, first in England, then on the Continent and overseas. He insists that "the urge to truck and barter" is not natural to man; that for centuries the market was a mere mechanism in England's economic pattern; that a scheme of long run relations involving trust and confidence left to contract a minor role; that regulation was traditional and competition an innovation; that local protection fell before an impersonal national industry; and that human and social values were at last made mere incidents to the process of buying and selling. In a word life, culture, society became a by-product of the practice of the acquisitive arts. Yet the market economy was not a natural development. The exchange of wares demanded elaborate rules of the game and the operation of the pecuniary calculus is pent in by severe limits. The whole structure of English society had to undergo change before land could be brought to market. The operation of the new institution was impeded for decades because the law made labor immobile. It was only with the invention of the myth that labor is a commodity that the working class was brought into the new regime. Land and labor were not caught up into the market economy; instead, as much of the properties of matter and the capacities of human beings as were caught up were called land and labor. However important things of culture might be, they came to signify only as they embodied measurable values. Only by the grace of a set of fictions which did violence to reality was the system able to carry on.

In strokes far more blunt and direct Sarpedon moves to a kindred result. He glories where Polanyi distrusts; he insists that the new system did exactly what it promised to do—it made England a rich country. He wants it understood that separation of state and economy did not mean laissez-faire. To him the free market was the mechanism, never the dominant agency, of business control. If the Victorians kept the state from interfering in matters which were not its concern, they were not foolish enough to believe that the economy could run itself. That office of supervision belonged to England. And, by England is meant, not the British Empire, or Whitehall or Westminster, but London, or quite specifically its money-market. For credit was needed to produce and to move goods; an institution of finance, ramifying throughout the world, determined who was to have credit; the money barons did not lay out their pounds stirling just to keep a free market going—in order that it might perform a noble social function. Instead they sought security; frowned upon reckless risk-taking; saw to it that output, capacity to produce, progress did not get out of hand. Accordingly capital—that is, business expansion—had to meet standards rigidly prescribed from London. The money lords severely fixed the limits within which the free economy was to be trusted.

So long as the economy remained independent, the dangers in nationalism lay dormant. If industry was not bound by them it did not matter how many states there were or how large or small they might be. Sarpedon points to the non-national mindedness of the bankers; Polanyi comments at length upon the manner in which political frontiers were sterilized. Sarpedon makes important a medium of credit good anywhere; Polanyi stresses the function of the gold standard. It was not the tie between money and gold which counted; it was rather the devise contrived to put currencies beyond the control of the political state. Sarpedon makes British dominion a secondary matter; if no obstacle was imposed to the rule of Threadneedle Street, it was better not to push the flag. The two concur in the significance of a vast free-trade area, in which all mercantile values had their ultimate reference in the pound stirling. God save the noble pound, God save the sovereign pound, was the hymn of peace throughout the economy.

In a world so organized, we are told, the peace was easily kept. The bankers might make loans—even to both sides—for petty wars. For profit lay in hostilities on a small scale, and Whitehall was there to see to it that small countries paid their debts. But the same international financiers insisted that some process other than war be used to straighten out quarrels between the great powers. For war would put in peril the national credit, the gold standard, the wide trading area, all the institutions upon which the separation of the industrial from the political order rested. The state was to maintain law and order, a task it was fitted to do. An economy, operating from the City as focus, was to insure peace, security, and an ordained progress.

Thus an order of society at which only yesterday we used to scoff has by Sarpedon been turned into an earthly paradise. It was no devil, Karl Marx, or beguiling ideology which corrupted such an Eden into the more primitive world we know. Polanyi stresses the internal, Sarpedon the external, factors which brought about institutional decay; but the two agree that the market economy helped mightily in its own undoing. To Polyani the dominant fact has been the unwillingness of all interests to leave matters of great concern to the arbitrament of an impersonal mechanism. Men of affairs have sought protection against cut-throat competition; the intellectuals have rebelled at the exposure of human values to purchase and sale; the workers have sought security against forces robbing them of skill and jobs. The regulated competition which has resulted is not the competition of each for himself and the devil take the hindmost. And a competition which has to be "enforced" by resort to antitrust laws and litigation, is not the free and open competition of the classical saints.

In contrast and as complement Sarpedon comments upon what has happened to the world market. For him affairs got out of hand at Sarajevo. The money lords, who could think pecuniary symbols but not things, were sure the First World War could last only a few months; its scale of operations would bankrupt all the participating nations. They were wrong; but governments stood the strain by the creation of huge public debts, which eventually brought money under public control. For a time an attempt was made to behave as if nothing had happened; but almost at once international trade exhibited signs of distress; money was nationalized; countries, large and small, were eventually compelled to go off gold. Then, for want of a standard of values, the world market shrank. The state, usurping a dominant economic role, went autarkic. The world-wide industrial order was no more; economies were cut to the size of national realms; governments were forced to play out of character; the whole fabric of society was torn.

Brilliant as they are, the two accounts fall short of complete diagnosis. Polanyi is detailed in respect to the creation of public controls; he all but ignores the counter movement by which the controls were taken over by the parties they were meant to control. Sarpedon is concrete as he recites the steps towards national autarchy; he tells little of the moves by which the business community made its adjustments. He sees clearly the barriers to the movements of goods; he does not mention the huge volume of traffic in legal documents—the import and export of contractual obligations; the commerce in equities in technology, trade-marks, trade names; the de-nationalization of the business executive; the creation of industrial imperia in which political frontiers became boundary lines between marketing demesnes. And, in fact, the framework within which economic trends were given play receives scant recognition. Here is a revolution which has marked a growth of status under the forms of contract; given an intricate ubiquity to that ghostly person called the corporation; defined rights of property in the market, where according to the law there can be none. In a word, the books supply raw material to the legal mill, rather than intelligence processed to the needs of the craft. Moreover, the two accounts describe the cases of Great Britain and Western Europe; they demand radical amendment to fit the cases of Russia and of the American republic.

And, like other tracts thrown out by these strange times, they are more useful in diagnosis than for prescription. Thought of the state as ruler of the economy frightens Sarpedon; a realization that the state is not yet ready for such a role causes Polanyi to pause. To Sarpedon, the world is going to be grimmer than before; and, in a choice between evils, he accepts the cartel as the price of peace. The closed corporate estate may sacrifice invention to security, maintain the price-structure by the creation of scarcity, turn every industry into a closed club of the elect. But such evils are far preferable to allowing great nations to make their economies the plaything of power politics. So salvation is to come by making London the sovereign of a world economy made up of rationalized industries, each organized in disregard of frontiers.

A constructive plan, to match his superb analysis, Polanyi lacks. He insists that, however dear the freedoms of speech, press and worship are to us intellectuals, the real freedom which was an operative fact under the ancient regime was freedom of contract. But, as contract has gone unilateral and the state has broken in on the bargain, that freedom has gone. Whether it rests upon a scaring faith or a grudging acceptance, he puts it down that collectivism —whether of the left or the right—is here to stay. Men must, then, find a new sort of freedom within the limits of a controlled economy and an intricate culture. He would retain the market as a mechanism for the exchange of goods but take from it the office of regulating values. To him the economy, like the legal system, is an instrument which must serve objectives which it does not itself set. Vision and program must direct worldy goods to worthy human ends. How all of this is to be done it is impossible to report. For at this point narrative fades into dialectic and the reviewer is unable to follow him into the upper ether.

But to say that Sarpedon and Polanyi fail to discover the future is not to disparage their contribution to an understanding of the here and now. Their inquiries into the past have helped to reveal trends, to sharpen perspective, to state questions. Myopia is one of the greatest of war's products; the current struggle generates its own intellectual climate and creates the illusion that in all matters of social conflict the opposing values stand upon opposite sides of the military front. Such a vision may purify faith and rob the cause of doubts; it is, however, a little too precious for the spotted actuality of our times. The Polanyi chapter on its rise and spread makes it clear that the trend towards an authoritarian political order is limited to no country, culture or creed. It may—it has to—bear the idiom of its nation; but its roots lie in an unhealthy social situation and it springs violently into being at the breakdown of the market economy. Its devotees may wear shirts of black, brown or silver; it sports its Kingfishes as well as its Duces. It may lie dormant for years, so long as the prevailing system delivers its minimum of goods; no parade of high resolves and sound arguments is going to stop it when people discover that the institution in which they have put their trust has betrayed them. The chances are somewhat against it, but "it can happen here." The current war, with its mutations which have come too fast for apologetics to follow, is itself symbolic of a social and cultural breakdown.

The course of human events has never known a plan; at no time of transition have people been able to see at all clearly what was, much less what lay ahead. Change comes in the instance and by stealth; a structure takes on form before its outline is clearly apparent. At the moment we seek to suppress symptoms, when we should probe to the very seat of current disorder. Witness the proposal of Henry Morgenthau to ruralize an industrial Germany. He seeks to take away the instrument rather than to correct its use. His is the logic which would destroy a printing-press because it can be employed to turn out obscene literature. The proposal is the more insidious because it represents the kind of thing we profess to be fighting against; to combat the authoritarian state by resort to its own weapons is to confess defeat. To the enemy the destruction of Germany may be a small price to pay, if the cause for which it stands can be made to triumph. Although the plan has been repudiated, it is to be noted as evidence of a state of mind which bids fair to rob the war of its capacity for constructive achievement. It threatens, with its talk of "war guilt," "war criminals," "punitive measures," to divert into a sadistic orgy the pent-up emotions whose proper outlet is radical reform. War is surgery; resort to it can be justified only if the fighting edge is driven to the deep seat of the malady.

We confront, then, the problem which Sarpedon and Polanyi have laid bare. The end of the separation of state and economy has brought a crisis to world culture. If the state is to dominate the economy, the small states will, through the very pettiness of their industrial systems, be doomed to a low standard of life; and the large states will use their economies as instruments in a bigger game of power politics. If the present economy is to dominate the state, the trend will be towards a regime of financial security realized in a united front of cartels. In either case, the dynamic urge and the public responsibility which makes for opportunity, abundance, the release of the creative faculties will be put in jeopardy. It is probably too late—even if it were desirable—to restore the market as supreme governor of the affairs of humanity.

We are not prepared to resolve the dilemma by merging state and economy into an over-all Leviathan as the Russians have done. The task, then, is to devise an order, techniques, processes, by which current society can rid itself of its capacity for explosion. Only time, with a lot of human help, will be able to clear up the confusion. But the road along which answers are to be found is not without sign-posts. The industrial system must again be made the instrument of the commonwealth; the economy, reaching across frontiers, must somehow be put out of the reach of power politics; agencies of control must be shaped to the clear-cut task each is given to do. If a lost international order is to be recaptured, a concert of powers to keep the peace is not enough; the authority which makes war must be stripped of its right to command the economy. It may take a Third World War, with a real ideologoical conflict, to expose and to resolve the basic problem. If it is to be averted, there must be clearer thought and bolder action than are now in prospect. If these fail us, it will presently be too late to seek an escape from the maladjustment in which we are caught by resort to political process.

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FEDERAL CORPORATION ACT. Preliminary Draft Prepared by the Corporation Law Committee of the American Bar Association. 1944. Pp. 80.

THE Corporation Law Committee of the American Bar Association has recently completed a preliminary draft of a Federal Corporation Act. The act is designed to apply to business corporations only. In appraising it, one should begin by asking what the objectives of a business corporation act are or should be. Such an act is, first of all, an enabling act, since our theory of corporations makes it necessary that corporations obtain legislative sanction not only for their existence but for their exercise of corporate powers. Secondly, a business corporation act aims to restrict and regulate as well as to enable.

Every business association necessarily has legal relations with a variety of groups, including its employees, customers, creditors and shareholders. Inasmuch as its relations with employees and customers are little, if at all, affected by the fact that the association has assumed a corporate form, legislative regulation of those relations is ordinarily embodied in statutes other than business corporation acts. The same is true to some extent of the relations between a corporation and its creditors, although the peculiar privilege of limited liability necessitates certain safeguards for creditors and certain liabilities to creditors which are important features of all corporation laws. In fact, the typical corporation statutes of a century ago—such as the widely copied New York Manufacturing Corporations Act of 1848—were so drafted as to indicate that, insofar as the legislature was seeking to protect rather than to authorize and enable, it was primarily corporate creditors whose protection was being attempted. Shareholders, unlike creditors, have votes. They, or at any rate a majority of them, can in theory depose any director or officer whose performance of his managerial functions fails to measure up to their conceptions of efficiency and integrity. Should not legislatures, therefore, permit shareholders to invest their savings in corporate enterprise without inventing paternalistic legal devices for their protection?

There are some who would even today answer that question in the affirmative. But there are many who insist that, because of the separation between ownership and control in the large modern corporation—subsuming under that phrase both those cases in which a corporation is controlled by a minority and those in which a controlling majority has interests more or less antagonistic to those of the minority—and because of the fluidity of contract rights under modern corporate charters, no modern business corporation act can be regarded as satisfactory unless it provides substantial safeguards for the shareholder, particularly the minority shareholder. A decade ago, in the heydey of the New Deal, some—though by no means all—of those who held such views came to the conclusion that the best method of protecting the investors in large corporations, as well as the consumers of their products and their smaller competitors, would be to enact a federal incorporation law of a regulatory character and to require all corporations over a certain size which were engaged in interstate commerce to incorporate under it.

Such views have not prevailed. Certain types of corporations—particularly public utility holding companies and their subsidiaries—have been subjected to a rather drastic measure of federal control largely for the purpose of investor protection. But even such corporations are not required to adopt federal charters. Most other corporations, except when they make a public offering of their securities or require reorganization, are permitted to organize and operate under state laws with very little federal regulation of the relations between their managers and their shareholder-owners. Some of them are, to be sure, subject to the provisions of the Securities Exchange Act, but the provisions of that act which affect corporations rather than security exchanges are of very limited scope.

The Preliminary Draft of a Federal Corporation Act which has been prepared by the Corporation Law Committee of the American Bar Association is not a revival of the proposals of a decade ago for compulsory federal incorporation. On the contrary, the Committee proposes a non-compulsory federal act, which would be available to the organizers of corporations, but which would be used by them only if they should deem incorporation under that act preferable from their point of view to incorporation under the laws of some one of the forty-eight states.

It is inevitable that a draft of a non-compulsory federal act should contain no radical departures from existing state models. Most organizers of corporations expect to control the corporations which they form. They do not necessarily desire to incorporate under the law which gives the most unbridled freedom to the controlling group. But none of them would needlessly choose incorporation under a statute which subjected their activities to unusually drastic regulation. An optional federal incorporation law need not be a Chinese copy of the law of Delaware. On the other hand, it cannot, if it is to be more than a dead-letter, be much more restrictive than the more carefully safeguarded state corporation laws, such as those of Illinois or California.

The Committee's draft, or rather that portion of it which has been completed, adopts, for the most part word-for-word, the provisions of the Business Corporation Act of Illinois. On the assumption that that act is model legislation, its substantial duplication by a federal statute might be desirable. It is true that the Illinois Act is available to every business corporation, regardless of the situs of its operations. But incorporation under a federal act which provided for filing of articles of incorporation with the Securities and Exchange Commission and for establishing the corporate domicile in any place which might be desired, would be more likely to appeal to corporate organizers in states remote from Illinois than would incorporation under an Illinois statute, at least if doubts as to the constitutionality of the federal act and the constitutional status of corporations formed pursuant to it could be set at rest. The Illinois Act is unquestionably one of the better state acts, both because of the policies which underlie it and because of the careful draftsmanship by which those policies have been given expression. For my part, however, I should be unwilling to accept it as a model without substantial changes.

Apparently the Committee either has not read or has not been impressed by certain criticisms of the Illinois Act which Professor Ballantine, the draftsman of the California Corporation Act, made some years ago.[1] I agree with many of Professor Ballantine's criticisms, but I shall review the Committee's draft from a somewhat different point of view, considering chiefly to what extent it might be revised so as to give greater protection to non-controlling shareholders without defeating its purpose of offering to organizers a method of incorporation which they might be willing to accept.

The non-controlling shareholder needs legal protection with respect to five subjects which overlap to some extent. He needs effective enforcement of the fiduciary obligations of officers, directors and controlling shareholders. He needs to have voting rights equitably distributed. He needs adequate restrictions on the funds which are legally available for dividends and for purchases of a corporation's own shares and effective means of enforcing those restrictions. He needs safeguards against abuse of the power to make organic changes in the structure of the enterprise by amendment, merger or consolidation. Finally, he needs to be assured of adequate and readily available information about the corporation's activities and the state of its finances.

Effective enforcement of fiduciary obligations requires both satisfactory rules of substantive law and adequate procedural means of enforcing those rules. The Committee's draft makes no attempt to deal with the fiduciary obligations of management. The effect is to leave questions of substantive law relating to such obligations to the decisions of the federal courts and questions of procedure to the Federal Rules of Civil Procedure. Such a disposition of the matter may be desirable. The provisions relating to the fiduciary obligations of management and the validity of transactions between corporations and their managers that are found in existing state corporation statutes are dubious improvements on the equitable principles established by judicial decisions. Although much might be said in favor of a requirement that certain types of transactions between corporations and their directors or officers should be valid only if approved by the Securities and Exchange Commission,[2] the inclusion of a provision to that effect in a voluntary incorporation act would have a strong tendency to make promoters unwilling to seek incorporation under it.

On the question of voting rights, the Committee's draft establishes a rigid rule of one vote per share [3] with the further provision that certain types of

1. Ballantine, *A Critical Survey of the Illinois Corporation Act* (1934) 1 U. of Chi. L. Rev. 357.

2. Compare section 17, Investment Company Act of 1940, 54 Stat. 815 (1940), 15 U.S.C. § 80a-17 (1940).

3. Section 27.

amendments require a vote of classes.[4] Such a system of voting fails to give sufficient protection to preferred shareholders whose dividends are seriously in arrears. Many modern preferred share issues have as one of their terms a provision permitting the holders of such shares to elect a majority of the directors if their dividends have been in arrears for a certain period. The federal Investment Company Act and the reorganization chapter of the federal Bankruptcy Act require such provisions. It would be desirable to accelerate the trend in that direction by including in the draft a mandatory provision for such voting rights.

Limitations on funds available for purchase of shares and for dividends are matters of vital importance both to creditors and to shareholders. Section 5 of the Committee's draft in effect forbids the use of any funds except earned surplus for the purchase of shares other than redeemable shares. This restrictive provision, copied from the Illinois Act, is a salutary one and is in sharp contrast to the laws of most states, which permit unearned surplus—in some jurisdictions even capital—to be dissipated in the purchase of common shares. The act is, however, defective in failing to spell out the legal consequences of purchases made in violation of the section. It is not clear, for example, whether the liability imposed on directors by section 41 for assenting to "the declaration of a dividend or other [improper] distribution of assets" to shareholders covers the case of an improper purchase of some of the corporation's shares.

The Committee's draft similarly limits the funds available for dividends to earned surplus, except that it permits capital surplus to be used for the payment of preferred dividends,[5] imposing a qualified liability on directors who assent to the declaration of improper dividends.[6] There are situations in which it is sound policy for a corporation which, despite impairment of its capital, is in a strong financial condition, to use some part of its current earnings for the payment of dividends. It may, however, be thought desirable to require the assent of a majority of the shareholders to such use of current earnings. The Committee's draft in effect permits majority shareholders to sanction such dividends, since it authorizes the elimination of a capital deficit by a shareholders vote for capital reduction.[7] The result thus attained seems satisfactory in the case of a corporation with only one class of shares. On the other hand, as applied to a corporation with both preferred and common shares, the dividend restriction is likely to have unfortunate consequences. Experience proves that statutes which require a shareholders' vote for capital reduction in order to make current earnings legally available for dividends frequently enable the holders of common shares to extort inequitable concessions from the preferred shareholders as the price of consenting to such reduction. Preferred shares are in

4. Section 53.
5. Section 40.
6. Section 41.
7. Section 58.

many respects more like income bonds than like common shares. No one would think of making the assent of the common shareholders a prerequisite, under any circumstance, to the use of current earnings for the payment of interest on income bonds. To require such assent to their use for the payment of preferred dividends is hardly less objectionable.

Section 51 of the draft grants a broad power to amend the articles of incorporation. Although the section permits reclassification of shares and change of preferences, it is not unlikely that it would be construed, like the Delaware and New York amendment provisions, to forbid the funding of accruals by amendment unless the preferred shareholders are given the option either to accept an exchange offer which eliminated their accruals or to retain their accruals but be subordinated in their dividend and liquidation rights to those members of the class who make the exchange. Such an interpretation would be unfortunate. If funding of accruals is to be permitted, it is preferable to allow it to be accomplished straightforwardly, subject to judicial or administrative review of the fairness of the plan, without the hocus-pocus of a pseudo-voluntary surrender of accrual rights which is in fact coerced by fear of the consequences of subordination. It might be desirable to incorporate in a federal corporation act a provision, similar to section 7 of the Public Utility Holding Company Act,[8] which would necessitate the approval of the Securities and Exchange Commission for all alterations of preferential rights. It may be that the insertion of such a provision in a non-compulsory federal act would unduly discourage incorporation under it. But the act should at least contain a provision granting appraisal rights to those who dissent from an amendment which changes their preferences—a desirable safeguard which is found in the corporation laws of several states.

Such an appraisal right is granted by the Committee's draft to those who dissent from the provisions of a merger, consolidation[9] or bulk sale of corporate assets.[10] As is usual in state corporation acts, there is no requirement for a vote by classes on proposals for merger or consolidation. Merger with a wholly-owned subsidiary is often employed primarily or even exclusively for the purpose of changing preferences and eliminating accrued dividend claims. Such mergers are bargains between classes of the parent corporation's shareholders rather than bargains between corporations. The reasons which call for a class vote on amendments which alter preferences are equally applicable to such mergers. In fact, if the proposed federal act should be interpreted as the Delaware act has been interpreted, the power to change preferences by the elimination of accruals would be broader if merger rather than amendment were the method used.

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8. 49 STAT. 815 (1935), 15 U. S. C. §79g (1940).
9. Section 68.
10. Section 71.

With respect to shareholder information, a provision of the draft,[11] identical with that of the Illinois Act as recently amended, safeguards the shareholder's right of access to books and records. The subject of corporation reports, a matter of far greater importance to the non-litigious small investor than the right of individual access to corporate records, is to be dealt with in a section which has not yet been drafted.

Would the proposed act, if enacted either in its present form or with some such additional safeguards for investors as I have suggested, serve a useful purpose? Whatever its theoretical merits, it would not be used unless corporation lawyers felt able to advise their clients not only that the act was constitutional but that corporations formed under it would—with respect to such state laws as exclusionary, regulatory, and tax laws—be in no worse position than state corporations. A federal corporation act which purports, as this draft does, to create federal corporations rather than corporations of the District of Columbia or of some federal territory must be linked up with some federal power, such as the power to regulate interstate commerce. The present draft is not so linked. Unless provisions taking care of this constitutional difficulty were inserted, the statute, if enacted, might be stillborn.

Although Section 4 of the act states that each corporation formed under the act shall have power to carry on its operations in any state, territory, district, or possession of the United States, or in any foreign country, there would seem to be doubt whether, even if the act were so phrased as to be based on the inter-state commerce power, it would be held to authorize corporations formed under it to engage in intra-state business without qualifying in the same manner as foreign corporations. Even if Congress could give such a right to corporations formed by it under the commerce power, the courts might decline to construe the grant of power as an authorization to do local business without the consent of the state in the absence of a specific statement in the act that qualification under local laws is unnecessary. But, however this may be, there is little doubt that in practice such corporations would be admitted even to do local business, as foreign corporations normally are. Presumably their tax status under state aws would be similar to that of foreign corporations. It may be that, if the constitutional basis far the statute were clarified by revision, its substantial merits would be sufficient inducement to cause a considerable number of corporate organizers to seek incorporation under it and to cause some existing state corporations to reincorporate under it. A trend towards incorporation under such a federal act rather than under laxer state acts would be one in the right direction.

Inauguration of such a trend, however, would be but a very short step in the right direction. Neither the act in its present form nor any alterations which could be made to it without destroying the likelihood of voluntary in-

11. Section 44.

corporation under it would be adequate to give the corporate investor as much protection as he needs. What is necessary for that protection is not federal incorporation, voluntary or involuntary, but federal regulation of all corporations of substantial size whose shares are not closely held. In the present climate of political opinion, enactment of such regulatory legislation appears exceedingly unlikely. A statute such as the Committee proposes, which offers to corporate promoters the privilege of submitting their enterprises to a mild form of federal regulation if they choose to do so, is much more in line with current trends. The enactment of such a statute, amended so as to eliminate constitutional objections, would be a worthwhile achievement. Even if the statute resulted in the formation of relatively few federal corporations, its enactment by Congress would strengthen the position of those who are seeking to bring into disrepute some of the more obvious laxities of many of our state corporation laws. Meanwhile, the fact that the Corporation Law Committee of the American Bar Association has modelled its proposals on the corporation law of Illinois rather than on that of Delaware is encouraging. Freedom of contract to the extent permitted by Delaware and many other states is an inadequate guiding principle for the governing law of a type of business association in which profit-sharing is not accompanied by personal liability for the payment of debts and control is largely divorced from ownership.

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THE POWER INDUSTRY AND THE PUBLIC INTEREST. Arthur R. Burns, Research Director. New York: The Twentieth Century Fund, 1944. Pp. xiv, 261. $2.00.

THIS book, the product of an investigation sponsored and financed by the Twentieth Century Fund, is concerned with the electric industry, an industry basic to the country's war production and one which will be fundamental to an expanding national economy after the war. The technical studies were made chiefly in 1941, and constituted a report of over 1,000 pages. Since under war conditions such a huge publication was impracticable, a rigid condensation was prepared. The book contains twelve chapters, an explanatory foreword, and a detailed table of contents; but there is no index and no bibliography; nor are there specific references to other books, articles or public reports. The first eleven chapters are devoted to the staff findings and account; the final chapter presents the "Report and Recommendations of the Power Committee."

The eleven staff chapters are extremely succinct. The first, only ten printed pages, surveys the history of the industry: the technological developments, the transformation from independent local concerns to huge holding company systems, the cost of furnishing service, and the rates paid by consumers. The

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next five chapters are devoted to public regulation of the private electric systems. The chapter headings indicate the scope: "Rate Regulation: Agencies and Problems"; "Regulation in Practice"; "Regulation: Effects and Appraisal"; "Financial Regulation"; and "Regulation of Market Area Control." The following four chapters present the existing public organization: "Municipal Ownership and Operation"; "Public Rural Electric Systems"; "Federal and State Projects"; and "The TVA." The final staff chapter, "Meeting the Nation's Needs," emphasizes comprehensive coordination of facilities, functional separation of generation, transmission and distribution, readjustment of government policy, provision for regional regulation, and summarizes "public versus private operation."

Although from a factual viewpoint the condensation is a distinct success, it inevitably lacks the focus and emphasis which are essential for anyone not already having a thorough knowledge of past happenings. The first chapter, for example, contains less than two pages on the development of the holding company systems, and hence could not convey to the uninitiate adequate comprehension of the gross corporate, capital, territorial and managerial distortions that were imposed upon the industry and could only be removed through extraordinary measures and herculean efforts. Nor is there, in the more liberal space devoted to the work of the Securities and Exchange Commission and the Federal Power Commission, sufficient recording of the financial and managerial complexes to be untangled.

The summarization job is marred also by occasional lapses in accuracy which create erroneous inferences. In the chapter on "Financial Regulation," for example, the first section outlining state regulation starts as follows: "The regulation of security issues of public utilities began in Massachusetts as long ago as 1871. The Bay State early came to regard securities regulation as the basis of rate regulation. The theory was that rates should return sufficient revenues to pay dividends upon capital stock issued in amounts and at prices approved by public authorities. The example set by Massachusetts was not followed elsewhere."[1] The statement of statutory enactment is correct, but the implication that the stated policy has been carried out is certainly wrong. The account passes over the fact that, once the stock issues were approved, the commission did virtually nothing to see that the investments were duly protected and were not subsequently impaired by unwarranted dividend payments or failure to provide properly for the depreciation of physical plant and equipment. As a result of the failure to continue regulation, many millions of Massachusetts utility stocks, which once represented prudent investment, are now outstanding without support of physical plant and equipment.

In another place, the staff account presents a vivid picture of the tremendous tax increases from 1902 to 1940. The bare facts are all right, but they are followed by this misleading statement: "These high taxes are largely

1. P. 68.

passed on to consumers. In setting rates regulatory authorities apparently allow most taxes, including federal income taxes, to be included as an operating expense." [2] The implication is that high rates have been fixed by the commissions because of high taxes. The truth is that high taxes have generally followed high rates in order to recapture excess earnings tolerated under unworkable methods of regulation.

The chief criticisms of the book center in the final chapter, the Committee's own report. Of the Committee, only one person, James C. Bonbright, could be regarded as combining a comprehensive knowledge of the industry with an unobstructed perspective in dealing constructively with the relative private and public interests. The other members are Samuel Ferguson and Paul A. Schoellkopf, both prominent in the realm of private utility control; J. Henry Scattergood, the Chairman, chiefly connected with private corporate enterprise though also a former member of the Pennsylvania commission; Larue Brown, once special counsel for the Massachusetts commission, with considerable experience in public affairs; and Murry D. Lincoln, active in farm organizations. While as a group these men do not support the extremes of private electric power positions, with the exception of Bonbright they would almost inevitably view with trepidation a comprehensive program of public ownership and operation, and cannot help but ignore, or treat lightly, the grave distortions of the private systems. Suggestive of their temperament are the nine dissenting or supplementary footnotes by Bonbright.

The Committee devotes the second section of its report to taxes, favoring generally revision and reduction, and urging particularly abolition of the federal excess profits tax. It views the tax as depressing net corporate earnings, and consequently impairing company credit and restricting the availability of capital funds for future plant expansion. But the fact is that the federal excess profits tax has, in the main, impinged only on companies with actual excess earnings. In 1943 the maximum was 90 per cent on taxable income above an average of about 6.5 per cent on invested capital, which during war time is hardly oppressive. Any company with reasonable rates, obtaining a fair return on investment and no more, was not subject to such a tax.

Nor is the Committee's fear that needed capital funds might not be available well founded; for moderately well-organized and financed operating companies are able to issue bonds at 3 to 3.5 per cent interest, compared with 5 per cent and over during the 1920's, before high taxes really set in. Its concern over losses caused to investors through the divestment proceedings under the Securities and Exchange Commission ignores the fact that the disposals have been predicated primarily on the earnings realized under past excessive rates. A more valid fear would be that the divestments might result in freezing the excess earnings in future public dealings with the companies.

2. P. 9.

Despite the staff's rather critical account of regulation, the Committee largely disregards the difficulties involved and reaches the easygoing proposal that future rate making be based upon formal negotiations. Bonbright dissents from this conclusion, undoubtedly believing that control can be made effective only if definite standards are established so that regular rate adjustments will be made as a matter of systematic and factual determination. Fortunately, the Supreme Court, in the recent *Hope Natural Gas Company* decision,[3] completely discarded the hodgepodge of past legal requirements as to "fair value" and the resulting unworkable procedure. Regulation can now be made an exact and regular process, definitely establishing and protecting the relative private and public rights.

Finally, while the Committee is tolerant of public ownership and operation, it virtually disregards that form of organization in its consideration of future policy and program. In the final section, it poses a question which it holds no committee can answer: "...the attitude which the public, of which government is only the organized representative, will take toward this great and vitally important business organization." This reviewer submits that the public attitude will depend chiefly upon the facts, analyses and proposals presented by these organized representatives of the public. If they continue to overlook the incrusted distortions of the private system, and join in supporting the basic untruths propagandized by private utility interests, the public attitude may for a long time tolerate an inherently intolerable situation: high private system rates perpetuated through over-capitalization, lack of efficient territorial integration, extravagant managements, excessive capital returns, and, particularly, the underlying conflicts of interest between the small groups of private control and the public at large.

Satisfactory solution of the problems of the country's electric power will compel open-minded consideration of two fundamental questions. First, can the disintegrated, privately organized systems be satisfactorily reintegrated and regulated so that they will be directed toward the public interest? Second, in view of the unfortunate traditions of private enterprise, should not the industry be acquired by the public with full fair compensation for actual private investments? Such a conversion might obviate all private obstructions and make possible the furnishing of adequate electric power at minimum available cost for the economic and social advancement of all sections of the country.

JOHN BAUER †

3. Federal Power Commission v. Hope Natural Gas Co., 320 U. S. 591 (1944).

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LAW ENFORCEMENT IN COLONIAL NEW YORK: A STUDY IN CRIMINAL PROCEDURE (1664-1776). By Julius Goebel Jr. and T. Raymond Naughton. New York: The Commonwealth Fund, 1944. Pp. xxxix, 867. $5.00.

IN this volume, which is a monument of scholarly scruple and industry, Professor Goebel and Mr. Naughton have sought to describe in all possible detail the doctrine and practice of criminal procedure in colonial New York from the English conquest in 1664 to the State constitution of 1777. Here is the richest store of material yet to be gathered on the difficult subject of the reception of English common law in America; until now, generalizations and hypotheses have far outrun the information at hand.

According to the authors one must distinguish two stages in the reception of English law in New York Province. During the first period (1664-1683), "the Duke of York's lieutenants with great skill promoted as the provincial law the little they knew of English *local* administration. One will find few reminiscences of Coke in what was done, but much of it will responsively footnote *The Countrey Justice*."[1] In the second stage (1684-1776), after the arrival of Governor Thomas Dongan and the enactment of the new judicature law, "a change of profound importance occurred. Within a few short months the whole procedural apparatus is renovated, the practices and forms of the English *central* courts come into use—the second stage of reception which will endure until the Revolution is under way."[2]

This thesis is clearly stated in Professor Goebel's introduction, and remains something of a chart to help the reader find his way through the wilderness into which he is led. One often wishes, however, that the trail were more clearly marked through these many pages. Still, much information is given which has bearing on the thesis, and it is worth digging for. The recognizance, for example, became, very soon after the English conquest, the usual means of exacting security in New York. Suretyship devices had long been important institutions of English local government, and the recognizance was probably the most popular of them in the seventeenth century. "This circumstance was a factor of consequence in the history of similar devices in America for . . . it was the local and the familiar legal institution which first gained footing overseas."[3] The recognizance was "if not indispensable, at least peculiarly suited to the needs of a government in a province reduced by force and inhabited by persons of whose loyalty it was impossible to be sure."[4] The law of bail is another example of this first stage of the reception. "The reaction of the colonial lawyers to the intricacies of the English law of bail is not to their credit as inventors. Instead of adopting as a point of departure the admittedly

1. P. xxiii (italics added).
2. *Ibid.* (italics added).
3. P. 485.
4. *Ibid.*

unlimited discretion of King's Bench to bail even for treason or murder, the cases show that the debated powers of inferior judges served as a model for provincial policy." [5]

The English lawyer of the late seventeenth century was faced with a bewildering confusion of jurisdictions. Judicial power had been given out piecemeal by enfeoffment and franchise, new courts had been created without the abolition of old, and the different courts were in constant conflict and competition. But the New York Judicature Act of 1691 vested the provincial Supreme Court with the powers at once of King's Bench, Common Pleas and Exchequer and forestalled any similar conflict here. This very consolidation of jurisdictions posed to the conscientious colonial judge the difficult task of selecting his own procedure. "If [in the Supreme Court] a second process was needed to summon jurors, should it be the *distringas* of King's Bench or the *habeas corpus* of Common Bench? Should an Exchequer information be brought on a forfeited bond, or a *scire facias*, and if the latter what leeway should defendant have—that given by the Barons or that given by the Lords Justices?" [6] One result of this uncertainty was an almost unlimited judicial control over the conduct of litigation. The Supreme Court, in the best English tradition, was unwilling to hear challenges to its jurisdiction. "Since agitation for decentralization was never entirely dormant, a Supreme Court jealous of its predominance was consequently a decisive factor in the reception of those common law rules and theories which would make for a hierachy and not for a congeries of jurisdictions with competitive ambitions." [7] Illustrations of this are found in the development of the transfer system, the suspension of inferior courts in the county where the Supreme Court was sitting, and various other devices to limit Special Sessions.

These pages raise a host of interesting and tantalizing questions which cannot be satisfactorily answered from the mere history of legal technology which is the primary concern of the volume. The propertied classes showed a warm enthusiasm for common law due process, and yet extended the scope of summary procedure to include a mass of petty misdemeanors. How can one explain their "partiality for summary procedure"? [8] How does one account for the constantly lengthening list of *qui tam* actions, by which the subject was deprived of a grand jury and usually also of a trial jury? How explain the increasing restraint of judges in dealing with jury verdicts in the latest colonial period? Why was the fine "the sanction par excellence of provincial criminal justice"? [9] Why the disappearance of escheat and forfeiture? Why was benefit of clergy so little used before 1750 and so suddenly revived after

5. Pp. 497-98.
6. P. xxviii.
7. P. 315.
8. P. 379.
9. P. 709.

1750? Professor Goebel and Mr. Naughton raise these questions, but, except for a few sentences in each case, they do not provide the answers. They seem determined not to go outside "legal" history, nor to concern themselves with the behavior of others than lawyers, sheriffs, judges, and litigants. It is doubtful if any one of these significant problems can be solved even tentatively unless one goes boldly outside legal materials and explores social and economic history.

Yet these authors try to explain the almost autonomous development of the lawyer's technique. They are impressed with 'how tough-minded the settlers were, and how few concessions were made to the circumstances of place." [10] After an immoderate attack on the "frontier" and "formative era" theories by which "the law of the colonial period is relegated to the antiquarian, and the law of post-Revolutionary time is enthroned as the true American law," [11] the authors themselves pursue a method which verges dangerously on antiquarianism.

This work is clearly in the tradition of English legal historiography: it shows the sensitive scholarly conscience of a Maitland and the prodigious industry of a Holdsworth. These qualities are beyond praise. But whatever the virtues of the English legal historians, it is undeniable that their vice has been a narrow professionalism. The methodological implication of this monograph is that legal historians should aim to provide "complete" treatises, which would expound with indiscriminate thoroughness the total facts of the history of an autonomous professional technology.

But life is short. One cannot hope ever to empty the vast ocean of fact with the thimble of monographs. Particularly in America, where our legal records are widely dispersed, and our jurisdictions numerous, scholars must be more selective in their curiosity. The efforts of American legal historians in the next generations will be spent more economically if they do not aim to encompass the amorphous totality of fact, but rather to understand a process by posing particular problems and studying particular examples. If the present work does not contribute directly to our understanding of the place of law in the social process, it does provide invaluable raw materials from which future studies may be made.

DANIEL J. BOORSTIN †

10. P. xxii.
11. P. xx.

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FINANCIAL ACCOUNTING. By George O. May. New York: The Macmillan Company, 1943. Pp. 274. $3.00.

MUCH earlier in the history of their profession than lawyers, accountants became realists. There have been few, if any, accounting analogues to seizin, springing uses, irrebuttable presumptions, or the other fictional paraphernalia of the law. Almost contemporaneously with the emergence of interpretative accounting out of the technique of double-entry bookkeeping, leading accountants hammered away to make clear to the public that an accounting "fact" is the result of measurement according to a partially arbitrary technique and definition; that an accounting principle is not *discovered* like a law of physics or the common-law, as the old jurists conceived it; but is a convention *adopted* because it is considered useful, like a principle of law in the mind of one of today's realistic jurists.

These points have repeatedly been made by George O. May, formerly head of the largest public accounting firm and a prominent figure in the American Institute of Accountants.

Mr. May's latest book, *Financial Accounting,* makes this point again and again. The book is significant mainly because this point is used as the foundation for an explicit statement of a long inarticulate protest of the accounting profession against government supervision. Pieced out of insinuations and innuendoes, the book's argument goes as follows: Accounting is essentially utilitarian, its rules and principles being conventions—postulates derived from experience—and subject to change as practical considerations and experience may dictate.[1] Accountants' financial statements may have to serve various, possibly conflicting, functions (of which ten are listed), and it is unfair to hold the accountant to responsibility if a statement prepared for one purpose is resorted to for another purpose.[2] The most appropriate convention may vary with the purpose for which the accounts are to be used.[3] It is less important, therefore, that financial statements be based on accounting principles deemed to be correct than that the principles be uniform from period to period.[4] Mr. May would allow corporations, within wide limits, to choose their methods of accounting, but would require them to disclose the methods used and to adhere to these methods from year to year.[5] The only sanctions would be those provided by the accounting profession and public opinion. He considers that a

1. Cc. I and III.

2. Cc. I and II. As Mr. May has elsewhere expressed it, to make one set of statements serve all purposes would be equivalent to expecting a knife to perform all of the functions of table silver. See May, *Eating Peas With Your Knife* (1937) 63 J. ACCOUNTANCY 15.

3. P. 19.

4. Pp. 76, 77.

5. A committee of the American Institute of Accountants (of which Mr. May was chairman) made this proposal to the New York Stock Exchange in 1932.

grave mistake was made when, by reason of the passage of the Securities Act of 1933 and the Securities Exchange Act of 1934, leadership in accounting matters passed from the New York Stock Exchange to the Securities and Exchange Commission. This change, he feels, impaired the professional status of accountants, striking "a wanton and unjustified blow" at the profession by "taking the responsibility for accounting rules and principles out of its hands and placing it in those of a policy-making body that was not expert . . . on which there was no accounting representation." [6]

But the issue is deeper than the avowed desire of the accounting profession to assume a full measure of responsibility. Mr. May's resentment of government interference and his opposition to uniform principles seem to add up to a pattern of distaste for any standard by which the work of accountants can be judged. Accepting his view that accounting is a utilitarian art rather than a science, one can deny the need to vary the conventions as each "artist" may think proper. Mr. May's conclusions as to proper principles [7] show that it is possible to select uniform principles to a much greater extent than he admits in his early chapters. Some principles may not be capable of uniform application, but that does not mean that there must be free choice case by case. Classification is possible, and, as Mr. May points out,[8] the Committee on Accounting Procedure of the American Institute of Accountants (of which committee he is a member) is engaged in the classification of industries for the purpose of obtaining uniformity in accounting for inventories.

Mr. May fails to show in support of his charge that the government has attempted to force on the profession an impossible degree of uniformity, that the SEC has refused to recognize differences in industries which call for different treatment of particular problems or that the Commission's approach to uniformity is any more rigid than that of the Institute's Committee on Accounting Procedure. In claiming that the SEC's assumption of leadership has been a "wanton and unjustified blow" at the professional status of accoutats, Mr. May also cotradicts himself. He recognizes that injection of the Commission into the picture was financially advantageous to the profession, and, more significantly, that its role has strengthened the accountant's position in relation to the corporation. Moreover, he admits that the "Com-

6. Pp. 62, 64. Mr. May finds in the "growth of accounting by prescription . . . . a shift from the common-law mode of thought towards that of the civil code." P. 5.

Mr. May also mentions another dispute existing within the ranks of accountants, in which the line of cleavage is much the same as that between accountants like Mr. May and the government. In contrast to practicing accountants who place principal emphasis on disclosure of methods and adherence thereto, many academic accountants (like governmental authorities) favor the adoption as rapidly as possible of uniform accounting standards. Mr. May swiftly disposes of the academic accountants by saying that they are unduly afraid of the possibility of managerial misrepresentation; they are too suspicious in order not to appear too naive (pp. 10-13).

7. See cc. V-XIII.

8. P. 175.

mission has up to now exercised the power to prescribe accounting rules . . . with restraint, and judiciously. Its decisions on general accounting questions have usually been reached after consultation with the Institute. Its influence on accounting practice in the field of general business has undoubtedly been beneficial." [9] Finally, Mr. May's contention that the accountant has been degraded because he has become responsible only for the application of rules laid down by a "body that was not expert" would not seem sound, since the Commission's staff has always included many certified public accountants,[10] and in ten years it has had a unique opportunity to develop experiments. Moreover, the professional status of lawyers and judges has not been impaired because legislatures—frequently including many laymen—make laws which the profession must accept.

Underlying Mr. May's arguments, there seems to be a desire of the accounting profession to avoid responsibility. This desire presents two very real problems: first, whether the profession should be bound by certain objective standards of good accounting, and, second, whether there should be governmental supervision of accountants to assure adequate financial disclosure by business enterprises.

With respect to the problem of objective standards, over-emphasis on the conventional character of accounting and on the need for wide discretion in the selection of applicable conventions would make accounting an aesthetic rather than a practical art. The graphic artist cannot be gainsaid if he says he painted the cow purple because that is the way he saw it. And to the extent that agreement on accounting principles is delayed or resisted, so that accounting remains a matter of "art," accountants remain socially irresponsible and their conclusions remain unreliable. Similarly, if Mr. May's oft-repeated claim that statements prepared for one purpose may not properly be used for other purposes were accepted, the accountant's responsibility would be minimized by reducing the utility of statements. Actually, there is little room for special purpose statements. Possibly a statement for a short-term credit should be ultra conservative in its treatment of all but current assets, and one for a bankrupt concern should show the plant at quick sale value instead of at depreciated cost. Beyond this, I must disagree with Mr. May's classification of the uses of financial statements into an older group for reports on the past and a new one in which the past is used as a measure of the future.[11] Determinations of fiscal and dividend policy, for instance, are uses which, though classified

9. P. 66.

10. In its formative years the Securities and Exchange Commission obtained the advice of T. H. Sanders, Professor of Accounting at the Harvard University Graduate School of Business Administration. See Sanders, *Accounting Aspects of the Securities Act* (1937) 4 LAW AND CONTEMPORARY PROBLEMS 191. Prof. Sanders was subsequently co-author of a work sponsored by the American Institute of Accountants. SANDERS, HATFIELD AND MOORE, A STATEMENT OF ACCOUNTING PRINCIPLES (1938).

11. Pp. 19-22.

in the older group, look at the future as well as the past. Similarly, there would seem to be no reason for Mr. May's distinction between the use of statements to inform prospective investors and as a guide to the value of existing investments, and use thereof as a report on stewardship. So long as accountants do not try to be prophets, financial statements which honestly report the past ought not, except for arrangement or emphasis, to vary substantially with their intended use. As Mr. May himself recognizes, "Financial statements are usually intended to be acted upon, and once issued they may be put to any one of many uses by those into whose hands they come.'[12]

On the question of governmental supervision, it would seem that responsibility for assuring adequate financial disclosure by business should not be left exclusively to the accounting profession. No profession ancillary to business, no matter how high-minded its practitioners may be, can be really independent of its employers. Few would now suggest that the policing of the securities markets could safely be left exclusively to the financial bar, the investment banking profession, or the stock exchanges. Like a lawyer, an accountant is an advocate for his client. This relationship between accountant and client is

12. P. 19. Mr. May's exposition of the need for flexibility merely seems to emphasize that change must be channelled through governmental agencies, rather than through the individual accountant's conscience, or self-regulation by the profession. A recent case, Associated Gas and Elect. Co., Securities Exchange Act Release No. 3285A, Aug. 5, 1942, illustrates this point. In an opinion delisting corporate securities, principally because of gross inaccuracies in the financial statements accompanying the registration statement, the SEC criticized the company's public accountants for certifying the statements. Illustrative of the deficiencies was the failure to distribute charges to earned and capital surplus, in accordance with accepted standards. The accountants sought to justify their failure to except explicitly to this feature of the statements, by the explanation that "we were probably acting on the theory that there was no clear distinction between earned and capital surplus anyway in the method they kept their accounts." *Id.* at 79. In other words, the accountants' certified statements used the ordinary vocabulary of accounting, as a code in which the words were given special ambiguous meanings.

Yet the Council of the American Institute of Accountants disagreed completely with the Commission's criticism of the accountants. See *Report of Action of the Council of the American Institute of Accountants in the Matter of Associated Gas and Electric Company* (1944) 77 J. ACCOUNTANCY 162. This report, exonerating the accountants in all respects, failed to mention the misleading treatment of surplus, described above, or other points at which the accountants were most vulnerable. The report strongly gives the impression that the Council chose to comment only on those of the Commission's criticisms to which it thought it had good answers. The careful omissions suggest that the Council members, called to sit in judgment upon a colleague, were thinking, "but for the grace of God, there go I." If the vagaries practiced in the delisting case do not call for criticism of the accountants, then a public accountant's certification of financial statements is a tenuous assurance of the reliability of the statements. And, if there is any validity to the Council's argument that at the time of the statements (1934-1937) the principles in question had not been crystallized, we can only conclude that any reliance on accountants' financial statements up to that time was misplaced. This inept rationalization for a refusal to criticize practice less than ten years old is the best commentary on the public accountants' opposition to "rigid" or "rapid" crystallization of principles.

well illustrated in the role accountants have played in the struggle of the public utility industry against reduction of rate bases by public regulatory commissions. The issue has thus far been confused because it has been argued in accounting terminology: how to treat the difference between the "original cost" of plant and the cost to the present owner.[13] Accountants, with the exception of those employed by regulatory commissions, have unanimously sided with the utility industry, refusing to look behind the accounting concepts to the underlying regulatory struggle. Performing a double duty, they have testified for utility companies as expert witnesses and, at the same time, attacked the regulatory position in periodicals as purportedly impartial authorities.[14]

In accounting, as in law, there is a continual necessity to strike a transient trial balance between rigidity and flexibility. Any veteran lawyer can in the course of a single day's business condemn a given departure from precedent by talking contemptuously about "railroad tickets good only for a single day and a single train," and then argue out of the other side of his mouth that the law must be continuously adopted to changing social and economic conditions. With similar advocate's license, Mr. May speaks of the conventional character of accounting and the need for using judgment in preparing every particular company's balance sheet, while simultaneously condemning regulatory commissions for introducing undue flexibility and departure from fixed principles.[15]

Apart from the emotive verbiage aroused by Mr. May's dislike of government regulation, the whole philosophy of *Financial Accounting* is in favor of a degree of flexibility so great as to leave the accountant irresponsible because no norms are left to which he must conform. This note is sounded just after a number of administrative and legislative studies have criticized accounting firms,[16] and payments of substantial sums by the firms in settlement of assorted

13. The writer has sought to explore the accounting issues and to reveal the underlying issues in Kripke, *A Case Study in the Relationship of Law and Accounting: Uniform Accounts* 100.5 *and* 107 (1944) 57 HARV. L. REV. 433, 693.

14. See May, *Accounting and Regulation* (1943) 76 J. ACCOUNTANCY 295 (substantially reprinted as the final chapter of FINANCIAL ACCOUNTING); Paton, *Accounting Policies of the Federal Power Commission—A Critique* (1944) 77 J. ACCOUNTANCY 432, Sanders, *Government by "Accounting Principles"* (1944) 22 HARV. BUS. REV. 265. All of these authors testified for Arkansas Power & Light Company on points closely related to the subjects of their articles, in a proceeding involving that company before the Arkansas Department of Public Utilities, early in 1944.

15. See, *e.g.*, c. XIV and p. 67. See also May, *Accounting Principles and Regulatory Expediency* (1941) 71 J. ACCOUNTANCY 116; May, *Northwestern Electric Co.* (1943) 75 J. ACCOUNTANCY 451.

16. See, *e.g.*, Associated Gas and Elect. Co., Securities Exchange Act Release No. 3285A, Aug. 5, 1942; SEC REPORT ON INVESTIGATION IN THE MATTER OF MCKESSON & ROBBINS, INC. (1940); Missouri Pacific R. Co., 6 S. E. C. 268 (1939); *Fallibility of Auditors' Certificates* (Preliminary Report of the Committee on Interstate Commerce, United States Senate, on Investigation of Railroads, Holding Companies, and Affiliated Companies) SEN. REP. No. 25, 76th Cong., 1st Sess. (1939) Pt. 3.

causes of action. The reaction of the profession toward these developments is natural and understandable, but, in this writer's opinion, short-sighted. Accountants would pay too high a price for obtaining irresponsibility by uncontrolled flexibility. Because of the very conventionality of accounting, accountants must, to the maximum extent, work according to fixed rules and should welcome governmental standardization of their measures. If accountants insist on being artists, their function in providing tools for financial judgment may well descend to the same unimportant and decorative level as that of the man who plans the format for the annual report or prospectus.

HOMER KRIPKE †

MOBILIZING FOR ABUNDANCE. By Robert R. Nathan. New York: Whittlesey House, 1944. Pp. XIII, 228. $2.00.

POSTWAR ECONOMIC PROBLEMS. Edited by Seymour E. Harris. New York: McGraw Hill Book Company, 1943. Pp. XII, 417. $3.50.

CAPITALISM, SOCIALISM AND DEMOCRACY. By Joseph A. Schumpeter. New York: Harper & Brothers, 1942. Pp. X, 381. $3.50.

WHERE'S THE MONEY COMING FROM? By Stuart Chase. New York: The Twentieth Century Fund, 1943. Pp. IX, 179. $1.00.

IT is surely symptomatic of this age of troubled transition that a large portion of the American population believes that when peace comes, it will be accompanied by a resumption of large scale under-employment of men and equipment. The invalidity of this unwonted pessimism is perhaps indicated by the fact that most professional practitioners of the allegedly "dismal art of economics" do not share the public's trepidation. The twenty-six authors of the four books on postwar problems under review here differ in their diagnoses and prescriptions: they concur, however, in their prognoses as to the possibility of continuing to maintain high income and employment levels after the war. Aside from their basic optimism, the authors are in agreement only in the general utilization of the new "income flow" technique for analyzing problems of business fluctuation.

During the nineteen twenties, students of business fluctuations in the United States and Great Britain tended to place a major emphasis upon changes in the relationships between costs and prices, or upon malfunctioning of the banking system, as the crucial factors underlying the transition through the

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phases of the cycle.[1] Some attention was also given to the effect of changes in the level of consumption on new investment—the so-called "acceleration principle." Government was expected to supply an equilibrator, through control of the money market; changes in the rediscount rate and the quantity of money available were deemed the major techniques of control.[2] During the nineteen thirties, increasing emphasis was placed on the effect of increases or decreases in total income levels on savings, on the one hand, and consumption and investment expenditures, on the other. This involved not only a change in the tools of analysis, but a departure from time-honored preconceptions of what may be called the received Classical and Neo-Classical schools. Originally under Say's "law of markets," equating supply and demand,[3] an increase in thrift was treated as an unqualified national boom under any conditions, since savings were deemed to be automatically applied productively. The Classicists considered that the capital market was controlled by the same laws as the market (under conditions of free competition) for physical commodities; any momentary surplus or deficit of savings would be corrected by the resultant alteration in interest rates.[4] [Later "orthodox" economists, however, were skeptical as to the definiteness of the correlation between fluctuations in interest rates and changes in savings and investment.] There had developed concomitantly the theory that a divergence between the bank rate (the

1. The classic exposition of the thesis that the business cycle is basically a self-generated reflection of changes in the relations between prices and costs, profits and anticipations, is WESLEY MITCHELL, BUSINESS CYCLES (1927) c. 1. See also ARTHUR ADAMS, ANALYSIS OF BUSINESS CYCLES (1925); PIGOU, INDUSTRIAL FLUCTUATIONS (1913). The leading exponent of the purely monetary theory of the cycle was the English economist, Hawtrey. See GOOD AND BAD TRADE (1st ed. 1913); THE ART OF CENTRAL BANKING

John Maurice Clark was responsible in large measure for the early development of the "acceleration" principle. The most complete statement is in his STRATEGIC FACTORS IN BUSINESS CYCLES (1934). The importance of the doctrine has been sharply questioned in HANSEN, FISCAL POLICY AND BUSINESS CYCLES (1941) 274-288.

2. In other words, emphasis was placed on the short-term interest rate. See HARDY, CREDIT POLICIES OF THE FEDERAL RESERVE SYSTEM (1932); Hersey, *Historical Review of Objectives of Federal Reserve Policy* (1940) 26 FED. RES. BULL. 279; HAWTREY, COMMERCE AND TRADE (1928); HANSEN, FISCAL POLICY AND BUSINESS CYCLES (1941) 66-78.

3. J. B. SAY, TREATIES ON POLITICAL ECONOMY (Princips ed. 1812) 167, 172-180. This was a useful conceptual device as applied to the condition existing before the spread of machinery and the development of credit-banking and industrial corporations. See Rogin, Book Review (1944) 34 AM. ECON. REV. 1124, 1125-6. It retains a limited utility in pointing out that payments made in the productive process, considered as a whole, i.e., wages, interest, profits, are also the major source of demand for the goods created in the same process.

4. See RICARDO, PRINCIPLES OF POLITICAL ECONOMY (Everyman's ed.) 95, 193; HAWTREY, CAPITAL AND EMPLOYMENT (1938) 165. The development after the Mid-Nineteenth Century of the time-preference theory of the rate of interest made application of Say's law to savings and investment considerably more palatable. In discussing the problem of changes in the size of working capital accounts, Marshall long ago recognized one possible leakage—an intuition later exploited by his disciples, Robertson and Keynes. See ALFRED MARSHALL, MONEY, CREDIT AND COMMERCE (1923) 45.

rediscount rate of the Bank of England) and the "natural rate of interest" could lead to disequilibrium of savings and investment.[5] But this perception, rarely formulated into a coherent theory, while influential on the Continent, seems to have disappeared from the forefront of Anglo-American theory after 1850.

The technique of analysis developed (partly on the basis of experimental theories of the 1920's) during the 1930's by Keynes, Robertson and Hansen, starting with Mitchell's premise that fluctuation rather than equilibrium is the "normal" state of business, is predicated on a challenge to the assumption that the savings of the community are offset automatically.[6] Attention was concentrated on the possibility of an enduring or intermittent condition of large

5. See THORNTON, THE PAPER CREDIT OF GREAT BRITAIN (Reprint, 1939); T. JOPLIN, VIEWS ON THE CURRENCY (1828); historical discussion in THOMAS WILSON, FLUCTUATIONS IN INCOME AND EMPLOYMENT (1942) 9-17. Irving Fisher continued to discuss divergences between market and natural rates of interest; see FISHER, APPRECIATION AND INTEREST (1896); THE THEORY OF INTEREST (1930) c. 2; but his cyclical theory placed unilateral emphasis on the effects of cumulative deflation and debt reduction. See FISHER, BOOMS AND DEPRESSIONS (1933).

On the Continent, the Swedish economist Wicksell elaborataed Thornton's perception. See esp. 2 WICKSELL, LECTURES ON POLITICAL ECONOMY (1904, Eng. Ed. 1934). A school of Viennese and London economists developed a monetary over-investment cycle theory, starting with Wicksellian touls, leading to policy recommendations directly contrary to those of the Keynes schools. See HAYEK, PRICES AND PRODUCTION (1931), ROBBINS, THE GREAT DEPRESSION (1934). For analysis of the fantastic assumptions on which the Hayek theory is built, see HABERLER, PROSPERITY AND DEPRESSION (1939 ed.) 53-57; Hansen & Tout, *Saving and Investment in Business Cycle Theory* (1933) 1 Econometrica.

6. See J. M. KEYNES, THE GENERAL THEORY OF EMPLOYMENT, INTEREST, AND MONEY (1936); ALVIN HANSEN, FULL RECOVERY OR STAGNATION (1938) and FISCAL POLICY AND BUSINESS CYCLES (1941). See also D. H. ROBERTSON's earlier magistral, BANKING POLICY AND THE PRICE LEVEL (1925) and KEYNES, TREATISE ON MONEY (1932). For simplified and shortened versions of the Keynesian analysis, see JOAN ROBINSON, THE THEORY OF EMPLOYMENT (1937); J. E. MEADE, ECONOMIC ANALYSIS AND POLICY (1936) Pt. I.

A needless note of confusion is intruded by Keynes' terminology. For by definition, he makes savings over every given time period equal to investment. Looking back at a period, this is invariably true; but, as Hansen has pointed out, this terminology makes it difficult to deal with the problems of monetary flow over periods of time, such as hoarding and dishoarding, credit creation and debt creation, which are among the enzymes of disequilibrium. See Hansen, *Keynes on Under-employment Equilibrium* (1936) 44 J. POL. ECON. 667, 675. Much of this confusion is eliminated by resort to Robertson's definitions, under which savings of any given period are defined as the income of the preceding period, minus consumption in the given period. Investment is defined as the total of spending in a given period, minus the total of consumption disbursements. Credit creation or dishoarding may make investment in any period exceed saving; hoarding or debt reduction may achieve the reverse result. See Robertson, *Saving and Hoarding* (1933) 3 ECON. J. 55; see also Heilbroner, *Saving and Investment: Dynamic Aspects* (1944) 32 AM. EC. REV. 827; Ohlin, *Some Notes on the Stockholm Theory of Savings and Investment* (1937) 47 ECON. J. 53, 221.

In fact, Keynes' formulation is vitiated by an apparent attempt to preserve the rigorous determinism and internal consistency, which characterized some of Ricardian and Marshallian economics. See Clark, *Economic Adjustments after Wars: The Theoretical Issues* (1942) 32 AM. ECON. SUPP. 1 *et seq.* Thus an exaggerated role was assigned to "the interest rate" as a determinant of investment decisions. For demonstrations of the limited scale unemployment; little in the Keynes-Hansen argument was contrary to the cost-price and anticipation-investment incentive analysis of the cycle.[6a] Many of its more perfervid advocates have exaggerated the newness of the theory. Thus its basic policy recommendations have a familial relationship to the under-consumption theories of certain of the mercantilists and of Malthus and Sismondi. The analysis of savings partially in terms of community habits had been inaugurated by Keynes' great preceptor, Alfred Marshall, in the late 19th Century, and was standard equipment for those trained in the "oral Cambridge" tradition.

The key theorems of the new analysis are: (1) that decisions to save and to invest are not entirely made by the same persons and are in any event motivated by somewhat different factors; (2) that the "rate of interest" does not function as a completely automatic equilibrator of the demand for and supply of savings;[7] (3) that in an advanced industrial society, a cyclical increase in

role actually played by interest rates, see Meade & Andrews, *Summary of Replies to Questions on Effect of Interest Rates* (1938) OXFORD ECON. PAPERS, No. 1; Ebersole, *The Influence of Interest Rates Upon Entrepreneurial Decisions in Business* (1938) 17 HARV. BUS. REV. 35; see also WHITE PAPER ON EMPLOYMENT POLICY (C. M. D. 1944) ¶60; 1 KEYNES, TREATISE ON MONEY (1932) 196 *et seq.* However, Keynes clearly posed the key problem of a highly industrialized, private enterprise economy, *i.e.*, the crucial role of investment in determining the general level of business activity and the increasing difficulty of finding private investment outlets. The problem thus formulated has been examined in detail, with particular reference to recent structural changes in the American economy in the two works by Hansen listed above. (The historical function of new investment in stimulating economic growth and also the role of investment fluctuations in the business cycle had been indicated earlier by other economists. See *e.g.*, DENNIS ROBERTSON, BANKING POLICY AND THE PRICE LEVEL (1925); J. M. CLARK, STRATEGIC FACTORS IN BUSINESS CYCLES (1934); SCHUMPETER, THE THEORY OF ECONOMIC DEVELOPMENT (1927); see also HANSEN, BUSINESS CYCLE THEORY (1927) cc. 4, 8. But these studies failed to emphasize the relationship between the problem of finding new investment outlets and the structural changes which to an as yet undetermined extent are differentiating the economic world of the 19th from that of the 20th Century.)

Keynes also utilized a static technique of analysis, paying little attention to the effect of changes over time in anticipations. See HABERLER, *op. cit. supra* note 5, at 244-5. Hansen's work is less rigid and more sophisticated in this and most other respects.

6a. See HANSEN, FISCAL POLICY AND BUSINESS CYCLES (1941) c. 1 Bennion, *Is Unemployment Chronic?* (1944) 23 HARV. BUS. REV. 115, 121-128. However, Keynes attacked the traditional theory that wage cuts were an effective means for promoting recovery. Chapter 22 of *The General Theory* made tentative suggestions for developing a cyclical theory. Further attempts in this direction have been made by two disciples. See HARROD, THE TRADE CYCLE (1936); Kalecki, *A Theory of the Business Cycle* (1937 4 Rev. Econ. Studies, 77 *et seq.*

7. The assumption of a definite inverse correlation between saving and the rate of interest had, as indicated above, been questioned by modern "Classical economists" long before Keynes penned "The General Theory." See, e.g., CASSEL, NATURE AND NECESSITY OF INTEREST (1903); IRVING FISHER, THE RATE OF INTEREST (1905). Similarly, Keynes overestimated the myopia of his predecessors in asserting that they had failed to realize the role of anticipated profits, i.e., in economic jargon, the "prospective yield of capital," in the making of entrepreneurial decisions to invest. See HANSEN, BUSINESS CYCLE THEORY (1927) 82-6, 134-5.

income is accompanied by an increase in the proportion as well as the total amount of income saved;[8] and (4) that there is no automatic process by which an increase in savings in one period is fully offset in the subsequent time period. It follows that an uncompensated diversion from the income flow of one period, e.g., an increase in individual or corporate hoarding, results in a diminution in total income in a subsequent period. Accordingly, declines in national income can be avoided only when offsets, whether domestic investments or otherwise, grow during booms as rapidly as income and savings. When insufficient offsets are available, the decline in national income, because of a reverse "multiplier" effect, usually exceeds the amount of the initial hoarding. (Nor can "full employment"—the goal of the economic system—be attained merely by increasing production *pari passu* with increases in the number of job seekers. For this hypothesis disregards technical advance and the secular tendency towards rapid increases in labor productivity;[9] accordingly, as a practical matter, full employment can be maintained only if the rate of increase of production exceeds the rate of growth of the working population.)

8. The statistical literature dealing with the cyclical and secular relations in the United States between fluctuations in income and changes in the proportion of income saved is legion. See e.g., Ezekiel, *An Annual Estimate of Savings by Individuals* (1937) 19 REV. ECON. STAT. 178; 1 KUZNETS, NATIONAL INCOME AND ITS COMPOSITION (1941), esp. at 270-1, 276-83; HANSEN, FISCAL POLICY AND BUSINESS CYCLES (1941) c. 11; NAT. RES. PLAN. BD., THE STRUCTURE OF THE AMERICAN ECONOMY (1939) 91. The situation in other countries is dealt with sketchily, in CLARK, THE CONDITIONS OF ECONOMIC PROGRESS (1940).

At this point, a conjuncture exists between the problem of cyclical fluctuations and the social problem of maldistribution of income and wealth. For obviously, as a general rule, persons in higher income brackets save larger proportions of their income than those in lower brackets. For detailed analysis, see NAT. RES. PLAN. BD., CONSUMERS' EXPENDITURES IN THE UNITED STATES (1937). While concentration of wealth resulting in a vast accumulation of savings is probably an engine of progress in a new state or a capital starved economy, it may contribute to the severity of cyclical fluctuations in a more mature state.

9. A study sponsored by the National Burêau of Economic Research indicated "a decline of two-thirds in the number of man-hours employed per unit of goods produced" in manufacturing, from 1899 to 1939, ignoring the effect of improvements in quality. FABRICANT, EMPLOYMENT IN MANUFACTURING, 1899-1939 (1942) 18. According to another estimate, the over-all hourly productivity of labor in manufacturing industry in the United States increased almost 100% between 1920 and 1940. BELL, PRODUCTIVITY, WAVES, AND NATIONAL INCOME (1940). See also 30 TNEC *Hearings* 17,220-42 (1940) (testimony of Corrington Gill & David Weintraub). The impact of technological changes on agriculture, while slightly less impressive statistically, has, due to the relative inelasticity of demand for certain staple crops, had even more disruptive effects on social patterns. See 30 TNEC *Hearings* (1940) 16,922-17,078; BERGER & LANDSBERG, AMERICAN AGRICULTURE, 1899-1939 (1942) 294-5 *et seq.* While at the peak of the present war production boom, labor productivity probably declined in many plants, there is reason to believe that in this war, as in the last, new machinery and plant arrangements have been devised which will make possible a great increase in productivity in future years. See *e.g.*, STUART CHASE, WHERE'S THE MONEY COMING FROM? (1943) 121-2.

The "income flow" method of analysis summarized above has come to be accepted by almost all students of business cycles.[10] The concord dissolves, however, at the level of policy recommendation. One group—to which Hansen and, presumably Keynes belong—adheres to the so-called "mature economy" or "stagnation" thesis. It believes that unless the "average" propensity to save can be reduced by redistribution of income or widespread changes in spending habits, advanced industrial states will find increasing difficulty in finding adequate offsets for savings in the *existing* outlets for private investment and that there will be a high constant rate of unemployment. As applied to the United States, this prediction is predicated upon certain changes in the structure of the economy in the 20th Century,[11] including: (1) the decline in the rate of population growth and in territorial expansion; (2) the increasing ability of large corporations to defray the costs of new equipment from their own reserves, without tapping private savings; and (3) the increase in the number of "capital saving" inventions.[12]

The Anti-Stagnation School, while not opposing depression utilization of a works program, seeks to repudiate the conclusion that the United States will

10. Evidencing their traditional occupational lag, many writers of elementary text books have persisted in ignoring the Keynesian method of approach. See, e.g., the discussion of business cycles and economic fluctuation in Meyers, Elements of Modern Economics (2nd ed. 1942); Knight, Economic Principles and Practice (2nd ed. 1942). The result is to condition the great mass of students who take only elementary courses either to accept theories and policy recommendations discarded by advanced students or to inoculate them with a thorough contempt for economics as an entirely abstract subject.

11. For supporting data and/or analyses of these factors see, in addition to the works cited *supra* note 6; 9 TNEC *Hearings* (1939) 3536-3538, 3597-3665, 3693-5, 4026-4032; 11 *id.*, 4947-4968, 4977-4980, 5479; Nat. Res. Plan. Bd., Technological Trends and National Policy (1937) pp. 67-91, 97-388; Hansen, *Progress and Declining Population* (1939) 29 Am. Econ. Rev. 1-16; Weintraub, *Effect of Current and Prospective Technological Developments Upon Capital Formation* (1939) 29 Am. Econ. Rev. Supp. 15-32; Sweezy, *Population Growth and Investment Opportunity* (1940) 55 Q. J. Econ. 73; Altman, TNEC Rep., Savings, Investment and National Income, Monograph 37 (1941); Myrdal, Population (1940) 150 *et seq.* In Snyder, *Capital Supply and National Well-Being* (1936) 26 Am. Ec. Rev. 195, evidence is presented to indicate that invested capital has grown little or no faster than value of output, in a series of major industries, since 1907. Hansen concludes that the recurrent development of new industries, with large demands for capital, is essential to avoid stagnation and "under-employment equilibrium." Fiscal Policy and Business Cycles (1941) 354-63. It is important to note that the Keynes-Hansen theorists do not believe that the era of technological progress has ended; rather, their view is that technological changes will not come quickly enough or be sufficient to absorb the full volume of savings.

12. Thus, between 1929 and 1939, the Celanese Corporation of America increased its stated "effective productive capacity" 700%, with only a 137% increase in the value of fixed assets. Annual Report of the Celanese Corporation of America for 1940 (1941) 2. Between 1926 and 1938, the value of fixed assets invested in automobile manufacturing declined 33%, but output and capacity rose by more than 33%, in terms of a constant price level. Kreps, *Consumption* (1941) 30 Am. Econ. Rev. Supp. 3, 177, 182-3. While these comparisons are based on too many assumptions to be quantitatively accurate, they serve to highlight the problem.

confront intermittent severe shortages of investment outlets by invocation of the unquestioned truism that human wants are insatiable and by attributing the incomplete recovery of the United States during the late thirties to governmental and labor policies, which, it is asserted, discouraged private investment.[13]

While *Postwar Economic Problems* is a symposium dealing with a wide variety of problems, its kernel is a debate between devotees and critics of the mature economy thesis. Slichter, Simons and, to some extent, Bissell—representing the moderate caucus of the anti-stagnationists—focus attention upon factors which are likely to create a high rate of spending immediately after the war. Thus they emphasize the large amounts saved by persons in moderate income brackets who presumably have high propensities to spend, the backlog of deferred consumer demand for semi-durable goods, the need for rehabilitation of the manufacturing and railroad plants, and the huge task of overseas reconstruction. Beyond this short run perspective, Bissell and Slichter stake their case upon the conviction that removal of the barriers to investment, real and psychological, allegedly erected by the New Deal, will lead to a resumption of industrial expansion. To some extent this prediction is justified by reference to the unquestioned fact that national income increased significantly in "mature" industrial states such as Sweden and Great Britain after 1932.

Evincing, in their discussion of investment incentives, a capacity for amnesia which would have delighted Freud, these economists fail to emphasize that the 1929 holocaust came at the end of an era marked by extraordinary governmental responsiveness to the wishes of the business community. Furthermore, Bissell and Slichter gloss over (1) the pump-priming role played during the 1920's by the $10,000,000,000 (in large measure debt-financed) spent by governmental agencies (mainly state and local) on highway construction and the additional billions spent on other public works [14] and (2) the extent to which exports were financed by flotation of bond issues, exceeding the capacity of the borrowers to repay and, functionally speaking, constituting a gratuitous transfer of idle funds from American investors to American manufacturers and industrial workers.[15] (The available evidence further

13. For sophisticated criticisms of the mature economy thesis, see Slichter, *The Period 1919-1936 in the United States* (1937) 19 Rev. Econ. Stat. 1; Slichter, *The Conditions of Expansion* (1942) 32 Am. Econ. Rev. 1-21; Ellis, *Monetary Policy and Investment* (1940) 30 Am. Econ. Rev. Supp. 1, 27-38; Slichter, Postwar Boom or Collapse (1942); Williams, *Deficit Spending* (1941) 30 Am. Econ. Rev. Supp. 1, 52-66; Hardy, *Fiscal Policy and the National Income* (1942) 32 Am. Econ. Rev. 109. Excellent agnostic approaches are presented in Angell, Investment and Business Cycles (1941); Kuznets, Book Review, 24 Rev. Econ. Stat. (1942) 34-5.

14. In fact to a considerable degree, federal deficit financing during the early 1930's merely offset the decline in local and state government deficit spending from the high level it had attained during the late 1920's. See Gayer, *Fiscal Policies* (1939) 28 Am. Econ. Rev. Supp. 90.

15. For an ingenious discussion of "foreign bond issues during the 1920's as a method of taxation in order to dump surplus goods abroad," see Arnold, The Folklore of Capitalism (1937) 280-5.

raises the possibility that the boom of the 1920's was protracted by a series of rather novel and non-recurrent offsets to savings.[16] Of course, this type of argument is somewhat self-defeating as a chart of the future, since it is possible to find non-recurrent factors at the roots of most prior periods of great industrial expansion, e.g., the government land grants which helped subsidize railroad building in the 1870's. Nevertheless, it is doubtful whether future demands for capital equipment created by technical progress will provide sufficient investment outlets to compensate for the decline in the past automatic need for new houses, utilities, and transportation facilities, resulting from a greater rate of population growth and territorial expansion.)

The reference to British and Swedish experience also seems to this reviewer to prove too much. For one thing, it is hard to deny that the degree of governmental or labor "intervention" in the operation of business enterprise in those countries in pre-war years at least equalled that in the United States. Moreover, if pushed to an extreme, the "intervention" argument becomes a form of business blackmail to forestall desirable social legislation. More provocative of thought are the fiscal policies pursued in Sweden and Great Britain. Thus Sweden attempted to adopt a cyclical budgetary policy—promising deliberate creation of deficits in periods of depression and the countervailing amassing of surpluses in boom periods. In addition, a capital budget was adopted, whereby long term government investments were amortized over a period of years in the manner practiced by private firms, rather than (as in the United States) added to the total of regular expenditures in the year of outlay.[17]

In Great Britain, the persistence of high progressive tax policies over the period from 1910 to date, coupled with an increase in government expenditures

16. This situation is perhaps best approached by examining fluctuations during 1928-1929. There is reason to believe that this period was marked by a slight decline in the proportion of distributed national income used for consumption expenditures, together with a precipitate decline in new residential construction (presumably due to satiation of the market under existing pricing policies), an abrupt curtailment of foreign lending, and the gradual exhaustion of possibilities of expanding installment credit. See, variously, WILSON, FLUCTUATIONS IN INCOME AND EXPENDITURE (1942) 143-58; KUZNETS, NATIONAL INCOME AND CAPITAL FORMATION, 1919-1935 (1937) 40; ROOS, DYNAMIC ECONOMICS (1934) 69-110; GINZBERG, THE ILLUSION OF ECONOMIC STABILITY (1938), Apps. A & B; Gayer, *Monetary Policy and Economic Stabilization* (1937) 113-131. For an interesting but grossly over-simplified discussion of the ephemeral nature of certain offsets developed during the 1920's, see NATHAN, MOBILIZING FOR ABUNDANCE (1944) 80-100. Query, whether the 1929 holocaust is not equally explicable as (1) the product of a wild speculative boom, which truncated confidence in securities markets, as (2) augmented by an unsound banking structure and government inactivity? Even if this hypothesis is true, a decline in investment outlets may have been responsible for the creeping increase in unemployment in 1929, prior to the market holocaust.

17. The Swedish (and the analogous Danish) budgetary practices are discussed in the appendix to LINDAHL, STUDIES IN THE THEORY OF MONEY & CAPITAL (1939); WIGFORSS, THAT SWEDISH BUDGET (1939); BRINLEY THOMAS, MONETARY POLICY AND CRISIS (1936). See also Musgrave, *Budgetary Balance and Capital Balance* (1939) 29 AM. ECON. REV. 260. For more general discussions of recent Swedish economic policies, see COLE & SMITH (eds), DEMOCRATIC SWEDEN (1939); Testimony of Kreps at 30 TNEC *Hearings* (1940) 16,262-5.

for income-transferring social security and housing projects, resulted in a redistribution of income. Thus the British reduced the magnitude of the task of finding offsets for savings by reducing the percentage of income saved.[18] It is of course impossible to summarize herein the numerous special factors which contributed to the extraordinary increase of production in England from 1933 to 1939. Most economists attribute a major role to the residential housing boom—in considerable measure the result of governmental policies, which reduced the cost of mortgage money and of urban land—and to the temporary stimulus to new investment resulting from enactment of the protectionist 1931 Tariff Act.[19]

Due to the greater space allotted them in Harris' Anthology, the devotees of the "mature economy" thesis—mostly disciples of Professor Alvin Hansen—have been able to make a completer presentation of their case than have their critics. While the Hansenites concur in the belief that an industrial boom will probably follow the war, they are skeptical as to its sustaining powers and the possibility of avoiding heavy long-run unemployment, if the economy is returned to "normalcy." Their reasons for skepticism are spelled out in the somewhat incomplete and Cassandra-like papers by Samuelson and Sweezy.[20]

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18. See CLARK, NATIONAL INCOME AND OUTLAY (1938) 185; REPORT OF THE COMMITTEE ON NATIONAL DEBT AND TAXATION (1937) Cmd. 2800, p. 17. In URSULA HICKS, THE FINANCE OF BRITISH GOVERNMENT, 1920-1936 (1938) 59, it is estimated that the sum redistributed from the "well-to-do" to the "lower income" groups by taxation and social security payments, in a period such as 1935-1936, amounted to a minimum of 110,000,000 pds. annually.

While no similar study has been made for the United States, it is significant that the tax structure in the United States before the war did not become significantly progressive until the level where incomes exceeded $5,000 per year. TARASOV, WHO DOES PAY THE TAXES? (1942) 4-9. On the other hand, in Great Britain, before the war, the tax structure was markedly progressive on incomes above 1,000 £ (roughly $4,250). SHIRRAS & ROSTAS, THE BURDEN OF BRITISH TAXATION (1943) c. 4. In both countries, the tax structure was regressive in the lowest brackets; more heavily so, however, in the United States, due to the excessive reliance of state and local governments on sales taxes and other consumption excises. See Perloff, *Fiscal Policy at the State and Local Levels*, in HARRIS (ed.), POSTWAR ECONOMIC PROBLEMS (1943) 221-241; HANSEN & PERLOFF, STATE & LOCAL FINANCE IN THE NATIONAL ECONOMY (1944).

It should be noted, however, that the British national tax structure takes pains to ensure special treatment for "venture" and new industrial capital, as by providing a 6 year loss carry-over in the case of new corporations. In fact, in the pre-war period, British corporation taxation was primarily used as a means of forcing distribution of income to security holders; heavy reliance was placed on differential taxation of undistributed profits. At the same time, rentiers were not able to find a Sabine Farm (as in the United States) in tax-exempt government securities. See Comment, 52 YALE L. J. 400, 406-15 (1943); Butters, *Book Review*, 56 HARV. L. REV. 1344 (1943); HANSEN, FISCAL POLICY & BUSINESS CYCLES (1941) 289-300; 383-399. *cf.* Bronfenbrenner, *Economic Effects of the Taxation of Government Securities* (1940) 35 ILL. L. REV. 295.

19. See STOLPER, FISCAL POLICY & THE BRITISH HOUSING BOOM (1941); Jaszi, *The Budgetary Experience of Great Britain in the Great Depression* in FRIEDRICH & MASON (eds.), PUBLIC POLICY (1940) 176-211; HANSEN, FISCAL POLICY AND BUSINESS CYCLES (1941) at 96-105.

Hansen's own provocative essay, "The Postwar Economy" emphasizes two lines of compensatory government action for avoiding stagnation:

1) The retention of a progressive individual income tax structure and an increase in public welfare expenditures to shift income from persons with low, to persons with high propensities to consume; and

2) The devisal of a public works developmental program, emphasizing urban reconstruction and watershed development. It is contended that if the Federal government announces its intention of embarking on these policies on a *permanent* basis, private investment will be stimulated by the resultant expectations of greater stability of income.[21] Far from pessimism, Hansen's conclusion is that the decline in population growth will lead the way to an amelioration of living conditions on an unparalleled scale, if the suggested institutional changes are effectuated.

These lines of policy are explored at length in other papers. The complicated practical problems of planning an extensive public works program are outlined in an admirable essay by the Canadian economist, Benjamin Higgins. "City Replanning and Rebuilding" by Guy Greer of *Fortune* magazine discusses suggestively a variety of techniques whereby the twin desiderata of increasing the volume of construction activity and redesigning our present disorderly urban conglomerates on a more functional basis may be promoted. The crucial question as to the volume of public debt which can be carried by the postwar economy is dealt with in a closely reasoned but almost unreadable paper by Seymour Harris.

From an economic standpoint, the most serious shortcoming in the presentation of the Hansen school's program is the failure—except in connection with the housing program[22]—to discuss adequately alternative methods of stimu-

20. In Samuelson's Paper, *Full Employment After the War*, HARRIS (ed.), POSTWAR ECONOMIC PROBLEMS (1943) 27, 47-52, the common argument that this war will be followed by a boom is subject to careful scrutiny. Particularly if price controls are removed prematurely, it is pointed out, that we are likely to suffer an inflationary boom, which will be profitable only for restricted groups in the community and probably eventuate in a drastic deflation, in large part motivated by excessive inventories. See also Samuelson, *Unemployment Ahead* (1944) 111 NEW REPUBLIC 344; but *cf.* SLICHTER, PRESENT SAVINGS & POSTWAR MARKETS (1943).

21. The argument that the failure to embark upon a permanent depression-time deficit-financed work program reduced their "multiplier" effect had been made in RICHARD GILBERT ET. AL., AN ECONOMIC PROGRAM FOR AMERICAN DEMOCRACY (1938) c. 2. A partial explanation, of course, is that the Administration did not consciously embark on a program of deficit financing as a means of economic recovery until 1937. See Gayer, *Fiscal Policies* (1938) 28 AM. ECON. REV. SUPP. 90-112. The public works program proposed by the President during the 1938 recession was aborted by the refusal of Congress to pass the necessary appropriation bills.

22. HARRIS (ed.), POSTWAR ECONOMIC PROBLEMS (1943) 23-24, 207-19. For a more extensive discussion of techniques for promoting the volume of private housing activity—including suburban zoning, simplification of title transfer procedure, authorization of insurance company investment in debt-free housing equities, and yield insurance—see TWENTIETH CENTURY FUND, AMERICAN HOUSING (1944) Pt. 3.

lating private investment. Without denying the indispensability of deficit spending in a depression or the general desirability of many features of the proposed development program, it is nevertheless true as Hansen himself pointed out in an earlier book that "public policy must in a system of private enterprise be directed mainly toward providing the necessary considerations under which private enterprise can go forward." [23] Along these lines, it is unfortunate that *Postwar Economic Problems* contains only the most superficial analysis of the common charge that the present corporate tax structure acts as a deterrent to new investment and equity financing in general.[24] (It is surprising in this connection that no reference is made to the extent to which reduction of corporation tax schedules—unless accompanied by some form of undistributed profits tax—might augment the savings-investment problem.) Another gap is the absence of any attempt to deal with the specific problems of resuscitating and providing long-term financing for small business after the war.[25] Equally surprising is the failure to discuss adequately the extent to which effective discriminatory antitrust administration could create a new investment frontier by augmenting consumption, although, as Hansen pointed out several years ago, this could not provide full employment unless the average propensity to consume were increased concomittantly.[26]

Doubtless it is a tribute to the survival power of the shopworn doctrine that economic and politics are separate disciplines that the essays by Hansen and his disciples are strangely oblivious to the structural changes in American government which adoption of their fiscal policies would probably entail.[27] For example, the present necessity of waiting for Congressional authorization before a public works program can be initiated or the tax structure modified

23. HANSEN, FISCAL POLICY & BUSINESS CYCLES (1941) 383. In general, this book and Hansen's earlier FULL EMPLOYMENT OR STAGNATION (1938), although obviously containing few specific references to postwar problems, are much-better rounded introductions to the long run problems of the American economy than the more recent contributions.

24. For a valuable and persuasive discussion of the general question of incentive taxation, see Colm, *Full Employment Through Tax Policy?* (1940) 7 SOC. RES. 447. See also Abbott & Zuckert, *Venture Capital & Taxation* (1940) 55 QUART. J. ECON. 667 for interesting calculations; HANSEN & PERLOFF, STATE AND LOCAL FINANCE IN THE NATIONAL ECONOMY (1944) 256-262. GROVES, TAXATION, JOBS, & EMPLOYMENT (1944) contains the best discussion of post-war reorganization of the corporate tax structure.

25. The most useful discussions are still COVER, TNEC REP., PROBLEMS OF SMALL BUSINESS, Monograph No. 17 (1941); FILENE FOUNDATION, SEMI-FIXED & PERMANENT CAPITAL FOR SMALL BUSINESS (1939); BERLE, NEW DIRECTIONS IN THE NEW WORLD (1940) 110-125. See also OXENFELDT, NEW FIRMS AND FREE ENTERPRISES (1943); Eccles' proposals, summarized in the N. Y. Times, August 24, p. 24.

26. See Kreps, *Consumption: A Vast Underdeveloped Economic Frontier* (1940) 30 AM. ECON. REV. SUPP. 177-199; Testimony of Lubin & Henderson, 1 TNEC *Hearings* 1939); HANSEN, FULL RECOVERY OR STAGNATION (1938) 138-141.

27. An honorable and important exception is Perloff's stimulating paper, *Fiscal Policy at the State and Local Levels*, in HARRIS (ed.), POSTWAR ECONOMIC PROBLEMS (1943) 221, 228-9, 232-5.

creates an unfortunate lag between the outset of a decline in business activity and the commencement of compensatory federal action. It would seem obvious that attention should be given to the possibility of shortening this gap by preparing in advance shelves of public works, which could be commenced upon the President's initiative, when the business indices indicated a slackening in the rate of private spending.[28] Similarly serious attention should be given to the devisal of flexible tax legislation, empowering the Treasury Department to vary tax rates within prearranged limits, in response to changes in the level of business activity.[29]

Another group of administrative problems is presented by the public developmental program. Presumably many of the specific projects could be most effectively administered through governmental corporations, akin to the T. V. A. But how will the investment decisions of these Authorities be correlated with the fiscal policies of the Treasury? What methods can be devised to decentralize the administration of the developmental programs, especially in rural areas, so as to preserve local initiative?[30] To what extent will a large scale urban redevelopment program require modifications in the existing division of functions between municipal and county governments?

Postwar Economic Problems also contains a subsidiary debate on the vital problem of stimulating a resumption of International trade. Here the party lines are even more sharply drawn. The traditionalists—Ellis and Simons—reaffirm eloquently the Classical faith that a universal removal of protective tariffs is *the* major step necessary for the attainment of "a peaceful orderly world." This nostalgic conviction that "Nineteenth Century liberalism" provides a viable postwar policy is met in the papers by Bryce and Kindleberger, with a more realistic discussion of the specific problems of promoting monetary

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28. The late lamented National Resources Planning Board was engaged in 1941 and 1942 in preparing a 6-year shelf of important projects to be financed by the federal government. The Federal Works Agency has also prepared a shelf from discarded war projects. Such shelves have been developed to a moderate degree in Sweden. It is important to accompany depression works programs with vigorous antitrust activity to forestall pegging of price levels in the capital goods industries or in the case of closely controlled industrial commodities, such as copper and lead, at levels disproportionate to those of other commodities. See SLICHTER, TOWARDS STABILITY (1934) 1-34.

29. Thus, contrary to the legislation of the period 1922-1939, it would appear desirable to raise many rates during a general boom and lower many during a depression. A recent British Government report recommends decreases in workers' and employers' social insurance contributions as unemployment increases. Consideration of adjustments in the income tax rates during a depression and of according deferred tax credits is also suggested. WHITE PAPER ON EMPLOYMENT POLICY (C.M.D. 6527, 1944) ¶ 68.

30. For suggestions as to some of the problems involved in decentralization of rural development projects see GAUS & WOLCOTT, PUBLIC ADMINISTRATION AND THE DEPARTMENT OF AGRICULTURE (1940) 150-9, 382-6; Comment, 50 YALE L. J. (1941) 1056, 1061-1070. See also NAT. RES. COMM., REGIONAL FACTORS IN NATIONAL PLANNING (1935) 12-14, 21-23, 34-44, 53-69, 182-191. For tentative suggestions regarding harmonization of the investment decisions of governmental agencies, see WHITE PAPER, *supra* note 29, at ¶ 63.

stabilization and of inaugurating an investment program, to facilitate industrialization of backward areas. Most valuable of all is Kindleberger's institutional description of the deep-rooted factors working to produce disequilibria in the international balances—e.g., the secular tendency for the terms of trade to go against raw material countries, and the chronic shortage of dollars.

The Hegelian thesis of Schumpeter's *Capitalism, Socialism and Democracy*, is that capitalism is doomed not because of the insufficiency of investment opportunities or any functional disorders, but because "its very success undermines the social institutions which protect it and inevitably creates conditions in which it will not be able to live." (p. 61.) More concretely, it is asserted that the rise of a non-subservient working class, the replacement of bold entrepreneurs such as the Pacific railroad builders of the Ninteenth Century by cautious corporate bureaucrats, the increase in governmental "intervention," and the growth of an atmosphere of hostility towards "big business" are slowly draining the vitality of private enterprise. Having delivered this reluctant obituary, Schumpeter proceeds to design a blueprint for the peaceful achievement of what may be termed a Managerial Socialist State. He concludes with a long and pessimistic discussion of the compatability of socialism and democracy.

It is impossible within the bounds of a printable review to give any adequate impression of the wide variety of problems or the mass of economic, political, and psychological theories touched upon in Schumpeter's kaleidoscopic pages. Perhaps his book is best described as a series of sniping expeditions. At times the forays are brilliant and provocative, as in the discussion of the role of political parties and leaders in a democratic state (pp. 250-280) or in the extraordinarily fairminded analysis of Marxian economics (pp. 9-44). Almost as often his arguments read as if they were footnotes appended to a Liberty League report (*e.g.*, pp. 121-130).

Eschewing the luxury of theoretical combat, it is advantageous to turn directly to the point at which Schumpeter most vigorously challenges contemporary American liberalism—his broadside defense of monopolistic policies. Proceeding in a strain redolent of late Nineteenth Century Social Darwinism, Schumpeter defines the operation of capitalist business enterprise as a continual process of "creative destruction," in which curtailments of output or pegged prices are the progenitors of progress. Competitive industry is equated with technological inefficiency. "What we have got to accept is that it (large scale enterprise) has come to be the most powerful engine . . . of the long-run expansion of output not only in spite of, but to a considerable extent, through this strategy which looks so restrictive when viewed in the individual case and from the individual point of time." [31] (p. 106.)

31. In terms of the dialectical philosophy espoused by Schumpeter, this analysis might be characterized as "the negation of negations." Whereas one or two monopolistic practices presumably constitute a harmful restraint of trade, a multiplication of restrictions results in industrial freedom.

As is the case throughout his book, Schumpeter rides his thesis to death by the elephantine employment of *reductio ad absurdum* arguments. In so far as he is concerned with the (perhaps non-existent) academicians—who seek by assiduous comparison of the geometric cost curves of firms under idealized conditions of "pure" and "imperfect" competition to demonstrate that large scale enterprise always results in higher prices—Schumpeter's appeal to history has obvious relevance. The circumstance that the *theory* of monopolistic competition [32] has been developed primarily in the past 15 years does not mean that the *condition* of monopolistic competition is equally new; in fact, the available evidence tends to indicate that "sticky" prices were prevalent in the United States during the 1890's, as well as during the 1920's.[33] The "perfect competition" of the classicists never existed and never could. More important, too many economists—perhaps fearful of straying beyond the bounds of Neo-Classical theory—have sought in recent years to stigmatize "monopoly" as the "Gentleman crook," solely or primarily responsible for the depressed state of business activity.[34]

32. See *e.g.*, E. H. CHAMBERLIN, THE THEORY OF MONOPOLISTIC COMPETITION (2nd ed. 1935); JOAN ROBINSON, THE ECONOMICS OF IMPERFECT COMPETITION (1933); Shove, *The Imperfection of the Market* (1933) 43 ECON. J. 113. Adumbrations of this theory were presented by COURNOT, RECHERCHES SUR LES PRINCIPES MATHEMATIQUES DE LA THEORIE DES RICHESSES (1838) c. 7; PARETO, COURS D'ECONOMIE POLITIQUE (1896) 68 *et seq.* A brief but acute summary of the recent theory is contained in Fly, *Observations on the Anti-Trust Laws, Economic Theory and the Sugar Institute Decisions: I* (1936) 45 YALE L. J. 1339, 1340-1358. The basic preconceptions of this line of theory have an obviously closer resemblance to the observed realities of our economic life than the preconceptions of the theory of free competition, and result in a vastly superior framework for analysis. However, the theory provides no "open Sesame" in coming to grips with the complex realities of any given market. See HAMILTON (ed.), PRICE AND PRICE POLICIES (1938) 1-21. For an interesting discussion of the extent to which pricing policies in a particular market departed from the predictions worked out by a careful economist, on the basis of the Chamberlin-Robinson approach, see Reynolds, *Competition in the Rubber Tire Industry* (1938) 28 AM. ECON. REV. 459; for an invaluable survey of the actual pricing policies of business firms, see Meade & Hitch, *The Pricing Policies of Entrepreneurs*, OXFORD ECONOMIC PAPERS No. 2 (1938).

33. F. C. MILLS, RECENT ECONOMIC TENDENCIES IN THE UNITED STATES (1934) 105 *et seq.*; Tucker, *The Essential Historical Facts About Sensitive and Administered Prices* (1938) 51 THE ANNALIST 195; Humphrey, *The Nature and Meaning of Rigid Prices, 1890-1933* (1937) 45 J. POL. ECON. 651; but compare the undocumented argument in WARE & MEANS, THE MODERN ECONOMY IN ACTION (1936) 58-9; see also, Wood, *Tucker's "Reasons" for Price Rigidity* (1938) 28 AM. ECON. REV. 663. The statement in the text relates only to the cyclical and long run behaviour of "prices"; no attempt is made to hazard a guess as to the correctness of the general view that there has been an increasing concentration of direct and indirect control over productive capacity in the United States. See A. R. BURNS, THE DECLINE OF COMPETITION (1936) 1-40; compare Stevens, Book Review (1938) 38 COL. L. REV. 1126 *et seq.*

34. It is interesting that many of the more ardent advocates of the theory that the increase in monopolistic practices was in large measure responsible for the extraordinary severity and protraction of the 1929 holocaust are sharp critics of government "interven-

However, during the brief period of pre-war Anti-Trust rejuvenation, there was no disposition on the part of those who labored in Thurman Arnold's vineyard to deny that large scale enterprise has been an indispensable means of obtaining the benefits of modern productive methods.[35] The house of industry has many rooms, and generalizations as to their occupants are of little significance.[36] But only confusion can ensue from the attempt to pose a polar antithesis between "trustbusting" and reduction in costs. Manifestly pulverizing the 15 or so firms now engaged in automobile manufacturing into 500 or more units to obtain a "more competitive" situation would probably mean higher prices for the consumer. On the other hand, it is probable that pulverization into 50 units would be economically desirable. Is any economic gain derived from including Pontiac, Buick, Chevrolet, et al. under one corporate roof? Nor should the general financial success of giant *corporations* be

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tion," by deficit spending, etc. Compare SIMONS, A POSITIVE PROGARM FOR LAISSEZ-FAIRE (1934) with Simons, *Hansen on Fiscal Policy* (1942) 50 J. POL. ECON. 161-197; see also MOULTON ET AL., CAPITAL EXPANSION, EMPLOYMENT, AND ECONOMIC STABILITY (1940), esp. at 182-93. The most sophisticated analyses of the relationship between price inflexibility and depressions have been made by economists under the Keynesian influence. See HANSEN, FISCAL POLICY & BUSINESS CYCLES (1941) 313-38 (emphasizing the difference between cyclical and secular flexibility); 2 MEANS, STRUCTURE OF THE AMERICAN ECONOMY (1938) 9-17; Mason, *Price Policies & Full Employment* in FRIEDRICH AND MASON (eds.), PUBLIC POLICY (1940) 25-58. See also HABERLER, PROSPERITY AND DEPRESSION (3d ed., 1942) c. 13.

It is hard to evaluate the significance of the fact that the great increase in production and distributed national income in England from 1932 to 1939 took place in the face of a steady trend towards cartelization and restriction of production in many lines of industry. See LUCAS, INDUSTRIAL RECONSTRUCTION (1935); LEWIS, PRICE AND PRODUCTION CONTROL IN BRITISH INDUSTRY (1936); LEVY, RETAIL TRADE ASSOCIATIONS (1944). Due to the extraordinary dependence of British prosperity on overseas shipments and the lead stolen by Great Britain in 1931 as a result of its timely departure from the Gold Standard, the British experience is perhaps too unique to have great exterior predictive value. It is also probable that British industry—excepting new lines such as chemicals and electrical equipment—was more competitive prior to 1931 than was the case in most other industrialized countries. Furthermore, one consequence of the relatively high prevalence of small scale firms in British industry prior to 1931 probably was the perpetuation of outmoded technology, VEBLEN, IMPERIAL GERMANY AND THE INDUSTRIAL REVOLUTION (2nd ed. 1941), so that the first impact of cartelization was to bring about the introduction of more efficient machinery, leading, at least temporarily, to an overall increase in investment. See LUCAS, *supra*. A recent government report has intimated the desirability of closer scrutiny over industrial policies, White Paper, *supra* note 29, ¶ 54.

35. See ARNOLD, THE BOTTLENECKS OF BUSINESS (1940) 116-131; HAMILTON, THE PATTERN OF COMPETITION (1941).

36. For a stimulating symposium on the alternatives available in a specific industry, see Rostow, *Bituminous Coal and the Public Interest* (1941) 50 YALE L. J. 543; Hamilton, *Coal and the Economy—A Demurrer*, 50 *id.* 595; Rostow, *Joinder in Demurrer*, 50 *id.* 613. The variations in the degree of imperfect competition are discussed in a sophisticated theoretical vein in Clark, *Toward a Concept of Workable Competition* (1940) 30 AM. ECON. REV. 241, with especial emphasis on product substitution and "intra-industry" competition.

allowed to obscure the fact that on the whole the very largest *plants* in any given manufacturing industry have proven to be less efficient technically, i.e., have higher unit production costs at high utilization levels, than medium-sized units.[37]

Schumpeter's rhetorical method of presentation and perhaps his conviction that a Socialist state is inevitable combine to result in complete failure to deal with many of the key questions as to the role of giant corporations in postwar America. For example, does not monopolistic enterprise's natural and understandable tendency to accumulate undistributed earnings and its tendency to retard the introduction of new equipment [38] accentuate the problem of finding offsets for savings? Does not the decline in the rate of population growth and territorial spread make the freeing of technology from monopolistic chains increascingly vital to the continued expansion of the economy? [39] Can the cumbersome techniques of control devised for the technologically comparatively stabilized utilities be applied to technologically more fluid industries? [40] Short of direct government ownership, with its probably invaluable yardstick effect in certain fields,[41] does the Democratic State have any viable alterna-

37. See TNEC Rep., Fed. Trade Comm., Relative Efficiency of Large, Medium-Sized, and Small Business, Monograph No. 13 (1941); U. S. Geological Survey, Professional Paper No. 123 (1931); Thorp, *The Role of Management as Innovator* (1941) 49 Dun's Review (Sept.) 5; compare 15 TNEC *Hearings* (1940) 8236-7 with Dillard, *Big Inch Pipe Lines and the Monopoly Competition in the Petroleum Industry* (1944) 20 J. Land P. U. Econ. 109, 121 (petroleum refining). The confusion intruded by multiplant ownership is indicated in F. T. C., Competition and Profits in Bread and Flour (1928) which, while indicating decreases in unit costs up to a certain point, as individual plant size increases, fails to show any correlation between total corporate capacity and lower costs. The best critical study of the relevant literature is Nat. Bur. of Econ. Res., Cost Behaviour and Price Policy (1943) 219-263.

It is highly significant to note that in almost all lines of industry the largest firms are able to do their financing at the lowest cost. See Trading & Exchange Division, Sec. & Exch. Comm., Cost of Flotation for Small Issues, 1919-1925 and 1935-38 (Mimeographed Report, 1940).

38. See Stern, *Retardation of Technology*, in Nat'l Res. Plan. Board, Technological Trends and National Progress (1937); Thorp, *supra* note 37. There is an old, but interesting, discussion of the United States Steel Corporation's practices in Watkins, Industrial Combinations and Public Policy (1927) c. 7; the introduction of new equipment in the steel industry during the 1930's, e.g., the continuous rolling mill, seems to have been pioneered by medium-sized companies, such as the National Steel Corporation.

39. See Abramovitz, *Savings and Investment: Profits v. Prosperity?* (1942) 32 Am. Econ. Rev. Supp. 53; Rostow, *Bituminous Coal and the Public Interest* (1941) 50 Yale L. J. 543, 593; Hildebrand, *Monopolization and the Decline of Investment Opportunity* (1943) 33 Am. Econ. Rev. 591.

40. See testimony of Jerome Frank, 5 *TNEC Hearings* (1939) 1,954-9, 1,975; Gray, *The Passing of the Public Utility Concept* (1940) 16 J. Land & Pub. Util. Econ. 8.

41. The erstwhile Socialist administration of Vienna found small public plants a useful device for reducing the costs of building materials and facilitating a large-scale slum clearance program. See C. O. Hardy, Housing Program of the City of Vienna (1934) c. 4.

tive to *discriminatory* Anti-Trust Policy? If it encourages or at least does not combat cartelization (thus repeating the mistake of the Weimar Republic),[42] without insisting on complete and rigorous government control (which, in turn, may diffuse responsibility to the point where creative leadership is impossible),[43] does not the Democratic State endanger its own future? Finally, can the Democratic State retain its vitality in the face of the limitations on social mobility which would presumably be a by-product of tolerated cartelization? (While this problem arises in any Managerial economy, it presumably becomes more serious in a business-controlled state, without the avenues for societal advancement opened up by political parties or ecclesiastical groups.)[44]

One of the less appealing paradoxes of the postwar period is the possibility that both the New and Old Dealers are correct, i.e., that the economy after the cessation of the post-war boom will not be able to provide full employment over long periods of time, without a considerable measure of government "intervention," but that such compensatory action will in large measure be nullified by the fear and distrust of the business community. In other words, our real difficulties may be more a matter of psychology than of economics. Recognizing the disastrous consequences of a split between advanced professional and lay thinking, Stuart Chase's little book, *Where's the Money Coming From?* [45] and Robert Nathan's *Mobilizing for Abundance* are devoted to the task of popularizing the views of the Hansen-Keynes school.[46]

42. For a thought-provoking study of the Weimar Republic's cartel policy, see NEUMANN, BEHEMOTH (1942) Pt. 1; see also STOLPER, THE GERMAN ECONOMY, 1870-1940 (1940).

43. Compare Thorp, *The Role of Management as Innovator* (1941) 49 DUN'S REVIEW (Sept.) 5.

44. A provocative discussion of the dangers confronting our society because of the growing restrictions on upward social mobility, or, in Paretian terminology, the circulation of the elite, is found in a brief section in BEARD, THE REPUBLIC (1943) 283-4. Critics of governmental bureaucracy often ignore the emergence of similar red-tape tendencies in large corporations. See DIMOCK & HYDE, TNEC REP., BUREAUCRACY AND TRUSTEESHIP IN LARGE CORPORATIONS, Monograph No. 13 (1941). The least debatable and in some ways the most interesting commentary on social control by business groups is the discussion of the rise and decline of 17th Century Holland, in MIRIAM BEARD, HISTORY OF THE BUSINESS MAN (1938) c. 17.

45. WHERE'S THE MONEY COMING FROM? is the third in a six volume series prepared by Chase under the sponsorship of the Twentieth Century Fund. THE ROAD WE ARE TRAVELING (1942) is a brief and uneven discussion of recent American economic history. GOALS FOR AMERICA (1942), written in the technocratic tradition, describes the productive capacities and human needs of the United States in an unbelievably clear, hard-hitting manner.

46. For other recent popular works along the same lines, see HANSEN, AFTER THE WAR—FULL EMPLOYMENT (Nat. Res. Plan. Bd., 1942); ZURCHER & PAGE (eds.), POSTWAR GOALS AND ECONOMIC RECONSTRUCTION (1944); GALLOWAY (ed.), PLANNING FOR AMERICA (1941) cc. 8, 9, 10, 12, 13, 14. Older but still valuable are CROWTHER, ECONOMICS FOR DEMOCRATS (1939); GILBERT ET AL., AN ECONOMIC PROGRAM FOR AMERICAN DEMOCRACY (1938).

As an old technocrat, Chase believes that "what is physically possible is financially possible." The role of finance is merely to make certain by its influence on the distribution of the national income between different claimants, that "financial considerations are never an obstacle to programs which are physically possible." [47] His mission of public enlightenment begins with a summary and overcursory discussion of modern theories of money and credit and of the savings-investment problem. There follows an analysis of American experience during the 1920's and 1930's, in terms of the "mature economy" thesis. The book concludes with an imaginative but somewhat uncritical discussion of types of compensatory policy which can be invoked when, as he believes is probable, the immediate postwar boom burns out.

Chase's major concerns are to refute the old homily that the solvency of a Nation may be gauged by the same methods as the solvency of an individual and to dispel the bogies of bureaucracy, paternalism, a crushing debt burden, etc., which, more than true fiscal factors, make the economic future uncertain. To these tasks Chase brings an unparalleled skill at condensation and clear, vivid narration. Despite the brevity of his treatment (the book contains only 179 short pages), Chase poses a half dozen questions which are skimmed over in the section by the Hansenites in *Postwar Economic Problems.* See, e.g., the discussions of monopolistic practices, and of state and county planning, at 151-4, 164-6. His uncritical enthusiasm for the novel, however, sometimes leads him to laud unduly fantastic schemes, such as the administratively impossible tax on increases in "hoards," proposed by Hazelett, Dahlberg, and others.[48]

In terms of its intended lay audience, the greatest deficiencies in *Where's the Money Coming From* are (1) the failure to so much as intimate the existence of other explanations of business fluctuations or to discuss the significance of cost-price maladjustments [49] and (2) the tacit assumption that the investment stagnation of the nineteen thirties will necessarily recur in the forties. Yet it is probable that after the demobilization period, one pressing problem of the post-war American economy will be the avoidance of inflation. It is likely to be some years before the shortage of investment outlets becomes a serious problem, especially if the high level of individual savings during the war

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47. See note 8, *supra.*

48. See Hazelett, Dynamic Capitalism (1943); Dahlberg, When Capital Goes on Strike (1938). More feasible is the scheme to finance depressions—without increasing the Treasury's interest burdens or counteracting the effect of deficit-finance by Tax increases—through issuance of non-interest bearing certificates to the banks. See Wright, The Creation of Purchasing Power (1942).

49. Hansen devoted considerable attention to the role of price and wage rigidities—and particularly of differential flexibilities—in his earlier writings. But this phase of his mature and well-rounded thought has not been overly emphasized by his disciples. See Hansen, Fiscal Policy and Business Cycles (1941) 313-341; Hansen, *Economic Progress and Declining Population Growth* (1939) 29 Am. Econ. Rev. 1, 13-15.

years by persons in moderate circumstances results in a greater propensity to buy semi-durables out of future income.[50] In a very fundamental sense, this probability provides us with borrowed time in which to learn how to adjust our economy to conditions where expansion has become less automatic. One trouble with deficit works spending (or Pierson's alternate scheme for deficit-financed consumer subsidies)[51] is that, like all palliatives which relieve the patient's symptoms, they may distract attention from the harder task of curing the disease. Few economists today would deny that public works are an indispensable tool in combating a depression, but it would be an unmitigated tragedy if the breathing spell of the post-war boom years does not witness the introduction of progressive tax, social security, and anti-trust policies,[52] which can reduce the dangers of subsequent over-saving, with relation to available offsets, and tend to stimulate private investment.

Since Chase, like any economist worth his salt, is frankly concerned with psychological reactions, it is also amazing that he has avoided coming to grips with the common business charge that the policies of the Roosevelt administration from 1934 to 1939, acted as a deterrent to private investment.[53] A reasonable deficit finance program should present no psychological hazard, once it is realized that inflation is unlikely to occur while there is considerable unemployment of men and plant. Two useful policies would be to have the federal and/or state governments make advance announcements of their intention to continue concentrating spending in lines, which will not

50. Compare Haberler, Book Review (1944) 34 AM. ECON. REV. 604; see Livingston, *Wartime Savings and Postwar Markets* (Sept. 1943) SURVEY CURR. BUS. 12-18; Weiler, *Wartime Savings Survey and Postwar Inflation* (July 1943) *id.* 13-18. However, it is to be expected that, as in 1919, fears of over-production, generated by the wartime increase in plant capacities in certain lines, will make many business men hesitant to build new plants or add equipment, for some period. See U. S. Dep't of Labor, ECONOMICS OF THE CONSTRUCTION INDUSTRY (1919) 30; Howenstine, THE ECONOMICS OF DEMOBILIZATION (1944) c. 15.

51. PIERSON, FULL EMPLOYMENT (1940); Pierson, *The Underwriting of Aggregate Consumer Spending as a Pillar of Full-Employment Policy* (1944) 34 AM. ECON. REV. 21; see criticism in Sweezy, Book Review (1944) 34 AM. ECON. REV. 134.

52. The Brookings Economists have been among the most consistent proponents of the thesis that low industrial price policies in response to technological changes would tend to increase national income. See H. G. MOULTON, INCOME AND ECONOMIC PROGRESS (1935); EDWIN NOURSE, PRICE MAKING IN A DEMOCRACY (1944); NOURSE & DRURY, INDUSTRIAL PRICE POLICIES AND ECONOMIC PROGRESS (1938). But insofar as it augments sales volumes and leads to higher corporate profits or higher national income the suggested policy perversely may enhance the savings-investment problem. For savings are in large measure a direct function of income variations; but investments (considered *ex ante*) are functions not only of anticipated profits (which presumably correlate fairly closely with expected income trends) but also of the rate of technical progress, the development of new commodities, the rate of population growth, and the interest rate. Since the Brookings scholars reject the Keynes-Hansen analysis, they are spared such worries.

53. It is significant that Slichter and Bissell attribute the deterrent effect to tax or labor policies rather than to deficit spending as such. See HARRIS (ed.), POSTWAR ECONOMIC PROBLEMS (1943) 83-113, 248-255.

compete (except where yardsticks are needed) with probable fields for private activity, and to utilize subsidies, perhaps analogous to the F. H. A. program, to stimulate private investment in socially-desirable enterprises, such as middle-class housing.[54]

Chase also, while not reaching the same level of disembodied theoretical word juggling as Harris and Lerner,[55] deals too lightly with the tax and fiscal problems which persistent peace time deficits would engender. American experience in the last ten years has, as he says, demonstrated convincingly that assuming we have an income level of $150 billions (at 1943 prices), a national debt of two to three hundred billion dollars on D-Day need not terrify us. "The interest burden is not a financial loss to the nation as a whole." [56] However, in view of the social security, veterans' welfare, and other probable peace time obligations of the national government, persistent postwar deficits would make the problems of tax draftsmen in devising legislation which did not choke off the incentives of private investors most difficult.[57] Furthermore, unless the economic conceptions of federal, and especially state and local, tax authorities are drastically changed, a rising public debt may lead to increasingly regressive tax policies, which will nullify the pump-priming effect of deficit spending. The continuous injection of new money into the financial structure by the sale of bonds to the commercial banks, while not having an inflationary effect so long as a substantial volume of men and equipment remain unemployed, would also tend to make every period of peak employment one of potential runaway inflation.[58]

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54. Query, to whata extent the public works program of the Roosevelt administartion *competed* with private enterprise. It is well enough to suggest, as does Bissell (Harris, *supra* note 53, at 109-110), that leaf-raking is wasteful; but it is also productive of smaller deficits than a works program and has the important advantage, in terms of the reconversion period, of avoiding competition for perhaps scarce capital equipment and of minimizing the freezing of labor in postwar ghost towns.

55. See Harris, *Postwar Public Debt* in HARRIS (ed.), POSTWAR ECONOMIC PROBLEMS (1943) 169, 177-87; Lerner, *Functional Finance and the Federal Debt* (1943), 10 SOC. RES. 38.

56. p. 106. In 1936—a year of great prosperity in Great Britain—national debt was 224% of national income. TUCKER & STEWART, TWENT. CENT. FUND, THE NATIONAL DEBT AND GOVERNMENT CREDIT (1937) 8, 99.

57. For careful analyses by Hansenites of the problems which would be created by continuous deficit financing see DAVID WRIGHT, THE CREATION OF PURCHASING POWER (1942) 131-49; Wright, *The Economic Limit and Economic Burden of an Internally Held National Debt* (1940) 55 Q. J. ECON. 116; Higgins & Musgrave, *Deficit Finance*—173-6; see also Shoup, *Problems in War Finance* (1943) 33 AM. ECON. REV. 74, 92-5; Leland, *Management of the Public Debt After The War* (1944) AM. ECON. REV. SUPP.—IMPLEMENTAL ASPECTS OF PUBLIC FINANCE 89-132.

58. See Wright, *Moulton's "The New Philosophy of Public Debt"* (1943) 33 AM. ECON. REV. 573; Mitnitzky, *Some Monetary Aspects of Government Borrowing* (1943) 33 AM. ECON. REV. 21, 29-37; Hansen, *Progress and Declining Population* (1938) 28 AM. ECON. REV. 1, 13-15.

These are criticisms of misplaced emphasis rather than of major policy suggestions. After all, Chase's book is aimed at the lay public and not at professional economists, and over-refinement of analysis would thwart the "wider public understanding of the opportunities and problems of the postwar period," which *Where's the Money Coming From* ably seeks to promote.

In *Mobilizing for Abundance,* Robert Nathan traverses much the same terrain as does Chase in *Where's the Money Coming From?* Paradoxically, Nathan, who is a gifted professional economist, appears to have a narrower conception of the lay public's tolerance for economic theorizing than does his competing popularizer. While his point to point analyses are usually more carefully worked out, Nathan's book suffers from excess repetition and a failure to concretize arguments with specific examples. Considered as a guide for the bedeviled, perhaps the chief deficiency of *Mobilizing for Abundance* is the failure to provide a general description of the circular flow of income in our economy and of the interaction between payments for participation in the productive process and purchasing power.[59]

However, Nathan makes two extremely valuable contributions to popular thinking. In the first place, he attempts to apply the Hansenite analysis to the 1922-29 period, managing magnificently to avoid discussion of the effects of speculation and credit structure weaknesses. (pp. 35-79.) However, as he makes no attempt to indicate in any detail the structural changes in the American economy which have taken place during the Twentieth Century, an alert but technically illiterate reader could logically conclude that only Divine intercession or a series of beneficient fortuities averted continuous catastrophe in prior years.

On a more sophisticated level, Nathan goes beyond the usual plea for deficit financing to discuss correlative procedures for combatting over-saving. Thus he emphasizes the necessity for amending the social security tax structure—which, as now constituted, facilitates government spending (through bond purchases by the Social Security Board) at the expense, in large measure, of direct consumption expenditures by persons in the low and middle income brackets and which, in a boom period, would have an uncompensated deflationary effect.[60] Much more explicitly than Chase, he indicates the extent to which redesigning of the tax structure—to eliminate its regressivity in the lower brackets and effectuate progressivity in the middle and upper income brackets, if accompanied by an expanded welfare program—would decrease the frequency of the need for deficit spending by decreasing the proportion of distributed income which is saved. In connection with the problem of incentive taxation, Nathan points out the correlative desirability of heavy taxation of undistributed corporate profits.[61]

59. Chase's illustrative chapter, "The Potato Economy," is a masterpiece of simplified expositive narration.

60. See also PROC. OF NATIONAL TAX ASSOC. (1937) 57 *et seq.;* HANSEN, FISCAL POLICY AND BUSINESS CYCLES (1941) 440-3; Burns, *Social Insurance in Evolution* (1944) 34 AM. ECON. REV. SUPP. 199, 206-10.

As a complementary instrument of government policy, emphasis is placed on the need for developing an overseas frontier for investment, which will absorb considerably more than the net $1,000,000,000 of exports sent abroad on the average, during the 1920's. While the industrialization of backward areas is indicated as the method for developing markets able to purchase and eventually defray the costs of such huge export surpluses, there is unfortunately no attempt to indicate the means of financing, necessarily governmental in some measure, which will sustain the exports until the process of industrialization is completed. Nor is there any evaluation of the possibility that despite war-created sterling and dollar balances presently backward areas—such as South America, China, Africa, and the Near East—unlike the backward areas of past eras—the United States, Germany, Belgium, Czechoslovakia, Canada—will not possess the exportable natural resources or be able to develop exportable manufactured goods, sufficient in value to pay for their own industrialization.[62]

Mobilizing for Abundance treats government deficit spending as "the ace in the hole" (p. 189) to be resorted to only when other techniques for equating savings and offsets to savings prove insufficient. Despite this somewhat coy formulation, it is clear that Nathan believes intermittent deficit spending will probably become a regular feature of our economy. This emerges most clearly in his attempted refutation of the case for cyclical budget balancing. "The combination of government spending for pump-priming purposes and a balanced budget over the duration of each business cycle will not lift this average (of income). It will merely serve to cut down the peaks of prosperity and fill in some of the troughs of depressions. It will not lift the level of total production and total employment over the entire cycle. This all assumes, of course, that there is no change in the pattern of income distribution or in savings habits. If we do nothing about increasing expenditures and decreasing savings to the level where private investments or offsets to savings can absorb all of the savings, then *continuous* large-scale government spending is the only way to assure full employment." (p. 192.) Indeed, perhaps the most original and challenging section of *Mobilizing for Abundance* is the sketchy discussion of the difficulties of reducing national debt during boom periods. (pp. 201-3.)

61. Apparently the Treasury Department's experts are now ready to recommend discard of the excess profits tax at the end of the war or the reconversion period, but have not yet committed themselves to revival of an undistributed profits tax. For provocative discussion of the forms such a tax might take, with emphasis on the need for according special treatment to personal holding companies, chronic accumulators of excess surpluses, and new small enterprises, see GROVES, PRODUCTION, JOBS, AND TAXES (1944) 29-49. Differential treatment for new enterprises is particularly important to permit the growth of such firms to effective competitive size. See BERLE, MEMORANDUM ON MONOPOLY TO THE TNEC. (1939).

62. See, generally, Buchanan, *International Investment: Some Post-War Problems and Issues* (1944) 10 CAN. J. ECON. & POL. SCIENCE 139; STALEY, WORLD ECONOMIC DEVELOPMENT (1944).

Like the Brookings scholars (see Nourse, *Income and Economic Progress* (1936), Nathan believes that increases in wage rates are a clumsy method for redistributing income. (p. 86.) While this argument is theoretically unassailable, and without denying that excess wage increases may protract a period of investment stagnation, one is led to wonder whether, if during another "prosperous" era the national administration adopts conventional economic and fiscal policies, while the labor movement retains much of its present strength, selective increases in wage rates may not be a useful technique for postponing the advent of depression. Of course, the utility of wage increases would depend upon the extent to which we could repeat the experience of the early defense economy and of the 1920's and keep prices from rising *pari passu* with wages, with industry finding a cushion to absorb increases, in the lower unit overhead costs resulting from fuller plant utilization.[63] A moderately increasing wage level might also be a rough but workable method for unfreezing technology and accelerating the introduction of new machinery. It is hardly necessary to add that the success of such a program would be dependent upon careful coöperation between trade union leaders and progressive economists and that, in any event, it would confer relatively little benefit upon large unorganized segments of the population—white collar workers, farm laborers, small businessmen, etc. Progressive taxation and an expanded welfare program may be both easier of administration and more equitable, but will they be probable political policies?

Perhaps the greatest over-all contribution of Chase and Nathan to popular thinking is in refuting the prevalent conception that national income is a fixed fund, which induces many conservatives to assume that progressive tax policies or an augmentation of social security payments necessarily would mean a decline in their own welfare. In Nathan's words: "Fundamentally, it doesn't mean a redistribution of a *given total income,* whereby the more prosperous yield part of their income to the less prosperous. Rather, flowing more income into the poorer classes will result in a *higher total income,* to the end that even the more prosperous among us will have more, rather than less, income. If through a moderate redistribution of income we could reach and maintain a much higher total production, all classes of society would benefit.... Higher consumption is the real solution . . . the more we consume, the more will we produce." (pp. 134-5.)[64]

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63. See Lubin, *Wage Policies and Price Trends* (1942) 31 SURVEY GRAPHIC 19; Wolman, *Labor* in 2 RECENT ECONOMIC CHANGES (1929) 425. For a provocative and oppositely phrased discussion of past wage policies see Slichter, *Problems of Wage Policy After the War* (1944) 21 PROC. AC. POL. SCIENCE 64. See also Haberler, *op. cit. supra* note 5, at 372-3; Mitchell, *Business Cycles* in EDIE (Ed.), BUSINESS CYCLES AND UNEMPLOYMENT (1923) 1, 10-11.

64. See also CHASE, WHERE'S THE MONEY COMING FROM? (1943) 174-6.

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