

drawing 450,000 tons from Rumania. But even with the most rigid economy she would find herself deprived of about half her normal supplies by the blockade when war began. Moreover, she had the exceedingly low reserve of only 2½ million tons. (Britain, with a smaller population, imported 12 million tons in 1938, and had a reserve of 6½ million tons in September 1939.)

After the short Polish campaign German economy was given no additional strain during the winter of 1939-40. The absence of heavy fighting meant that there was no rapid drain on her finished armaments or stocks, and no serious effort was made to increase, or prepare for a subsequent increase of, her total volume of armaments production. There seems no doubt that the rapid victory in Poland confirmed the assumption that the existing industrial base and the proved strength of the armed forces were sufficient for whatever fighting was to follow, and that clever diplomacy would prevent additional strains. The slogan 'business as usual' was adopted, and German leaders made some complacent statements in October and November 1939 to the effect that the transition to a more rigorous economy was unnecessary. The Allied calculations, which had assumed an all-out economic effort by the enemy, were naturally confused by this state of affairs; the vigorous measures to cut off German imports did not appear to be securing the success which they deserved because they assumed a rate of internal consumption that was not, in fact, taking place. There was no Allied bombing of industrial targets during this period; sabotage plans were not of serious importance. War on the Franco-German frontier had some economic-warfare results; it led to the virtual cessation of work in the Saar plants, so that German steel production, which had averaged just over 2 million tons monthly from January to August 1939, fell to 1.8 million tons monthly in October, November, and December.¹ On the other hand, a substantial decline in coal production in the Saar and Aachen fields was amply compensated by the acquisition of Polish-Silesian supplies.

(ii) The Allied Blockade, September 1939 to June 1940

In their economic pressure on Germany during this period the Allies were limited by circumstance almost entirely to a blockade on the lines of the First World War. The model, however, as it had functioned towards the end of that war, was a good one, and it was partly because the 1917-18 plans were introduced more or less in their entirety in the early months of the new war that the blockade was believed to be so successful. The purpose was to control the passage of three classes of goods: imports into Germany from overseas sources; imports into Germany of the indigenous

¹ This figure included 100,000 tons monthly from the acquisition of east Upper Silesia.

produce or manufactures of neutral states adjacent to her frontiers, and German exports.

Goods from overseas sources could reach Germany either directly—that is, through German ports—or indirectly, through the territory of an adjacent neutral country. Contraband—which, in effect, means anything that a belligerent declares to be susceptible of a warlike use by his enemy—came under Allied naval control on the outbreak of war, and virtually all German supplies by direct sea routes to north German ports were at once cut off. The northern route to Scandinavia and the Baltic was covered by a contraband-control base at Kirkwall and by the Northern Patrol; the southern route through the Channel by the base at Ramsgate and a supplementary base at Weymouth. Traffic in the Mediterranean was covered by bases at Gibraltar, Haifa, and a little later at Malta. The Allied contraband lists, issued on the outbreak of war, were so comprehensive as to include practically all German imports other than medical supplies, certain finished goods, and tobacco. The theoretical distinction between 'absolute' and 'conditional' contraband was retained, conditional contraband consisting mainly of such goods as food, foodstuffs, and clothing which might be put to either civilian or warlike use. But the British and French Governments followed the practice of the First World War in applying to both classes of contraband the doctrine of 'continuous voyage' (so that an ultimate enemy destination became a ground for seizure of both classes of goods), and adequate search was ensured by the practice of diverting suspect neutral shipping to the Allied contraband-control bases for examination. Old controversies, that had still not lost all meaning, were revived by these practices, which from the Allied point of view were justified both by the conditions of twentieth-century warfare and by well-established precedent; neutral protests, which were made formally on several occasions, were meant both to reserve a position and to demonstrate to home and German opinion the impartiality of the neutral's conduct. It is probably fair to say in general that in the Second World War neutral protests against Allied blockade practices, when there was any real feeling behind them, were due far more to national dignity (as in the cases of Italy and Japan), or to fear of incurring German retribution (as in the case of Norway or the Netherlands) than to preoccupation with the technical legal issues. British practices were based, in any case, on the universally established right of a belligerent to control contraband; no formal blockade was proclaimed.¹

In addition to the physical interception of goods at sea the Allied Governments had various other means of control. Exports from the United

¹ The views of the British Government on the position of these problems in international law are set out in the Report of the Committee on the Law of the Sea, and also in the Report of the Committee on the Law of the Sea, 1940.

Swedish supplies were not as plans and hopes of some effective interference. The sharp drop of Swedish iron ore exports had gone to Germany in 1937, and Germany also took useful quantities of Swedish copper, ferro-alloys, and wood products. The Allies had certain bargaining weapons if they were better customers than Germany (taking 32.4 per cent. of Swedish exports in 1937, as compared with 15.8 per cent. taken by Germany); they could control Swedish imports of important deficiency commodities such as liquid fuels, and it was believed that for fiscal reasons Sweden would have a strong interest in maintaining her exports to the Allies. However, Sweden's policy was defined in decisive terms on 13 September 1939. Her policy would be one of strict neutrality, and in her economic relations with other Powers she would maintain exports at a normal level with countries which did not restrict their normal exports to Sweden, and would ensure by means of her export licensing system that her exports to belligerents did not exceed normal proportions. The Allied chance of compelling her to adopt a more accommodating attitude were prevented by the fact that Sweden had prepared herself for the crisis by building up stocks, particularly of foodstuffs, sufficient to prevent embarrassment for perhaps eighteen months or more, and above all that she was determined to avoid any course which would excite or justify German retaliation. The Allies, moreover, needed Swedish supplies (such as ferro-chrome and charcoal pig-iron), they were anxious to conclude a shipping agreement with Sweden, and they knew that the Swedes had no grounds for fearing Allied reprisals comparable with those that Germany would impose. The Anglo-Swedish agreement of 7 December 1939 accordingly recognized that Sweden would be entitled to export indigenous products up to the level of her 1938 figures, and would not export commodities derived from across seas other than the Baltic. The United Kingdom undertook to allow the import of reasonable quantities of such commodities. The British Government secured a favourable shipping agreement, and was satisfied that Swedish sympathies were such as to guarantee that the agreement would be honoured in the spirit as well as in the letter.

The two essential provisions—that the neutral should be allowed to import through the Allied contraband controls reasonable quantities of commodities on condition that neither these nor an equivalent were re-exported, and that native produce should be exported only up to 1938 figures—also formed the basis of the agreements with Norway, Denmark, Holland, Belgium, and Switzerland.¹ But there were numerous modifications, concessions, and special provisions. The Allies had more than one sharp reminder of the neutral Governments' powers of retaliation. Sweden was not prepared to sign the shipping agreement until the war-trade

¹ For the agreement with Switzerland see below, p. 209.

negotiations were completed. Holland set up a 'counter blockade' by fishing or delaying the passage of supplies for export to the United Kingdom of animal and certain vegetable oils, vegetable oil seed-cakes, and condensed milk; Switzerland in December 1939 restricted exports to France required for national defence. 'Processing' was a general difficulty, and was the most serious problem of the Anglo-Dutch negotiations. The Netherlands imported raw materials, such as rubber, textiles, hides and skins, and various metals, which were sent to Germany for manufacture, the finished articles being returned to the Netherlands. The same problem existed in Sweden and elsewhere. The Allied objection was not so much that Germany would seize the materials—if she did, further supplies could be cut off—as that she would gain foreign exchange from the transactions. The Netherlands had an effective bargaining weapon, for she was processing 100-octane oil for the British Air Ministry, and it was finally agreed that, to secure the oil, Britain must allow some processing of Netherlands goods in Germany. In the Danish negotiations there was a somewhat similar problem of reciprocity; the maintenance of Danish exports depended on supplies of feeding stuffs and fertilizers from overseas, and the British Government did not wish to see these imports used to facilitate Danish exports to Germany. But Denmark was also sending foodstuffs to England, and it was pointed out that the same pig might produce offal for Germany and bacon for England. The United Kingdom supplied 75 per cent. of Danish coal and coke imports, as against Germany's 19 per cent., and as the balance of trade was decidedly in favour of Denmark there was a substantial sterling balance which the United Kingdom could block. Against these apparent tactical advantages to Britain there had to be set the hard fact that Denmark was determined not to annoy Germany, and might reply to pressure by reducing exports *pro rata* to both Germany and the United Kingdom.

In spite of much hard bargaining the British Government felt that they could trust these states to maintain the war-trade agreements against German pressure. In the Balkans the position was different: Germany's political and economic control was too strong to be shaken by Allied threats or promises. Not only was her economy largely complementary with that of the Balkan states, but her clearing policy since 1933 had given her a predominant position in bargaining with them, while Britain and France had shown little willingness to combat this influence. The Ministry of Economic Warfare hoped, however, to challenge German preponderance by a vigorous purchasing policy. Rumanian oil supplies were regarded as sharing with Swedish steel the most important role in the economic struggle, and on 12 September 1939 the British War Cabinet authorized the immediate purchase of all surplus oil stocks in Rumania, the chartering of all available oil barges, and the obtaining of an option on oil supplies

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after the expiration of existing contracts. Large purchases were made through the British oil companies, but in December the German Government decided to control and limit export, and after some months' uncertainty it became clear that Germany had been guaranteed annual supplies of 1,560,000 tons. Through the Gøeland Company, specially formed for the purpose, the Ministry of Economic Warfare arranged the purchase of tugs, tankers, and barges, but these amounted to less than 10 per cent. of the total oil fleets on the Danube, and after the fall of France it was not found possible to remove or immobilize more than a fraction even of these. In the same way much of the oil that had been purchased could not be removed. A fairly satisfactory minerals agreement, which was concluded with Yugoslavia by the British Government on 11 January 1940, had the effect of at least limiting Yugoslav exports to Germany to the level of existing German-Yugoslav agreements; however, it seemed doubtful whether Germany was much concerned, except possibly in the case of chrome. Small purchases of maize and oilseeds were made in Bulgaria, but German competition was strong, and the discovery in April 1940 that Bulgaria was facilitating the transit of oil from Russia to Germany led the British Government to withhold counter-concessions. Greece was a more hopeful field of activity, and a draft war-trade agreement was made with her on 7 September 1939, and completed on 26 January 1940; the position had to be examined in the light of the Graeco-German agreement of 23 August 1939, but the British agreed to purchase chrome up to 55,000 tons and a minimum of £500,000 worth of Greek tobacco, and chrome exports to Germany were limited to 1,000 tons.

The policy of pre-emption, which had its principal opportunity in the Balkans in this period, was not exactly a failure; but the shortage of foreign exchange, the vastly superior position of the Germans in both influence and market knowledge, and the absence of any purchasing organization directly under the control of the Ministry of Economic Warfare, all limited the effectiveness of pre-emption at this stage. The formation of a separate commercial company, the United Kingdom Commercial Corporation (U.K.C.C.) was the answer to this problem; it was incorporated on 11 April 1940 with an initial capital of £500,000 provided by the Treasury, and it was to play a dominant role in the later stages of the war.¹ But the change in the fortunes of war during the winter of 1940-1 prevented any substantial success for it in the Balkans.

Italy's geographical position and Axis affiliations might have provided the biggest leak in the blockade, but the unexpected cautiousness of Italian diplomacy during the first months of the war encouraged hopes in

¹ The Treasury also provided staff. It had a commercial department working under the instructions of the Ministry of Economic Warfare (for purchases) and the Board of Trade (for exports).

that she might remain neutral, or even become ally of the Allies. Mussolini's voice remained deaf to the arguments of his advisers today, but he certainly had no intention at any stage of fighting Germany; in the last resort, too, he was prepared to waive and all arguments for non-participation based on Italy's appalling economic weakness. In February 1940 he described Riccardi, the Minister of Currency and Exchange, as a cry-baby for speaking in blunt terms of Italy's deficiencies in monetary reserves, stocks, and armaments; for six years, he said, Italy had been described as being on the verge of bankruptcy but she had survived on quite well.¹ But he was not prepared to enter the war in 1939; partly because of irritation with German conduct, partly, it would seem, because Italian unpreparedness, while it was unlikely in the last resort to prevent a gambler's throw, was sufficiently obvious to necessitate at least a brief period of caution. Italy was dependent on external sources for coal, iron, oil, and nearly all other raw materials; her stocks of these and of finished armaments were extremely low in September 1939. There were able advocates in the Ministry of Economic Warfare of the view that a confessed non-belligerent Italy had made herself liable to the full exercise of the blockade in a form which would prevent her from giving help to the Axis and would even prevent her from eventually entering the war herself. It seems unlikely that these considerations would have prevented Mussolini's intervention when the time seemed ripe, whatever the state of Italy's resources, and the Allied Governments preferred to treat her as a genuine neutral, and to explore the possibilities of an agreement.

Accordingly only the normal blockade measures were applied; Italy, that is to say, could continue to import without restriction for her own industry, although the Allied contraband control endeavoured to detect and seize goods destined for Germany. The inevitable delays and inconveniences of the blockade were accepted by the Italians at first with surprising good humour; but after October 1939 criticism mounted, and an intermittent, but at times violent, campaign in the Italian press kept alive a sense of grievance and kept Mussolini, so it was reported, near boiling-point. There were concessions; the Italians were allowed to make an extensive use of 'hold-back' undertakings,² and the crack Italian liners, the *Rea* and *Conte di Savoia*, were allowed to pass through Gibraltar with only a few hours' delay. At the end of December 1939 the Ministry of

¹ Galeazzo Ciano: *Diario 1939-40*, 2 vols., 4th edition (Milan: Rizzoli, 1947); *Ciano's Diary 1939-40*, ed. Nathaniel Muggeridge (London: Heinemann, 1947), 12 February 1940.

² These undertakings were frequently given by neutral shippers and accepted by the Ministry of Economic Warfare between September 1939 and April 1940. They neutralized an amount of cargo destined for the neutral port of destination, but under the terms of the undertaking it was to be re-exported to the belligerent by the Commercial Corporation, it was held that it should not be treated as contraband.

Economic Warfare agreed, as a 'Christmas gesture', to release all Italian cargo detained under hold-back guarantees merely on the assurance of the Italian importer that they would not be re-exported. This relieved tension for a moment, and Ciano appeared interested for a short time in the idea that Italy should 'run contraband control herself'—i.e. sign a war-trade agreement. But this solution was turned down by Mussolini, and bickering continued.

In their endeavour to conciliate the Italian Government the British had, however, entered on extensive discussions for a general trade agreement between Italy and the United Kingdom, and until February 1940 the enthusiastic reception of these proposals by Italian officials and industrialists kept alive British hopes of a weakening of the Axis. The Italian Government were informed in December that the British would be willing to expend £20 million in Italy during 1940; in January the British Cabinet agreed to raise this figure to £25 million if necessary, although this decision was not communicated to the Italians. The Italians seemed prepared to offer aircraft engines and material, foodstuffs, hemp, mercury, and other goods; they wanted in return a wide range of products including coal, the existing quota of Newfoundland fish, rubber, copper, nickel, tin, jute, mineral oils, and cereals. These would clearly be of great use to Italian rearmament, and the British Government made their willingness to bargain dependent on the Italian readiness to supply aircraft, guns, and other equipment. Riccardi said on 3 February that Italy's economic situation was so bad that she must make a virtue of necessity and accept the British terms; Mussolini rejected them on the 7th. From the British point of view the refusal to sell arms and equipment was a test of sincerity; from this point there seemed little doubt that Mussolini would join Germany in due course. German coal exports to Italy, which had hitherto been allowed to sail from Rotterdam, were stopped early in March;¹ and in spite of some last-minute efforts in May to reopen the discussions the hope of weaning Italy from German control had vanished in February. Shortly after Mussolini's decision on 7 February Ciano admitted to the British Ambassador that the decision was a political one, and that, in spite of press propaganda, the Italians had really no cause for serious complaint on contraband-control questions. The Ministry of Economic Warfare was satisfied that no very large supplies had reached Germany through Italy; but Italy had certainly been able to stock up to some extent, especially in oil. But she was still not ready for a major war in June 1940.

To complete the economic encirclement of Germany it was necessary to bring the U.S.S.R. into active co-operation with the Allies; and here British policy was, until the German attack in June 1941, a complete

¹ British experts seriously underestimated the amount of coal that Germany was still allowed to Italy through Switzerland.

policy. Yet it was never quite certain that some economic agreement, consistent with Allied policy, could not be achieved; the Ministry of Economic Warfare was at first very hopeful on this point, but the overriding political and military needs of the Allies demanded that the effort should be made. When the results proved disappointing there were phases of pressure; but the Soviet Union was not sufficiently dependent on overseas supplies for the ordinary machinery of blockade to make any appreciable impression on her economy. On the outbreak of war British export licences for exports to the U.S.S.R. were refused or delayed, but this was for supply and not economic-warfare reasons; when the Soviet authorities retaliated the War Cabinet authorized negotiations, and with the minimum of delay a barter agreement was signed on 11 October 1939 under which Russia secured 8,500 tons of rubber and 600 tons of tin, and agreed to release about £1 million worth of timber (all that could be shipped before the winter freeze). The War Cabinet were prepared to risk the danger that the rubber and tin would find their way to Germany, and during October and November discussions continued with the Soviet Embassy in London for a further barter deal, involving the exchange of Russian cereals for machine tools and copper. The agreement of 11 October continued in fact, until June 1941, to inspire British hopes—which were all disappointed—of similar bargains.

The Soviet Government always insisted that they could not sign anything in the nature of a war-trade agreement with the United Kingdom, as this would involve some degree of acceptance of Allied blockade policy; they protested formally against British and French contraband-control practices in notes of 25 October 1939. On the other hand, they continued to say that they were willing to trade with both belligerents, and kept the possibility of further barter agreements alive. In the autumn of 1939 they did not put their views about Allied blockade measures to the test; Soviet ships were simply withdrawn from areas where they might be subject to contraband control, and largely confined to Pacific routes. After the outbreak of the Finnish war virtually all British exports to the U.S.S.R. ceased, and there was no further talk—for a time—of an economic agreement; instead, measures to control the so-called 'Vladivostok leak' (the flow of commodities to Germany across the Trans-Siberian railway) were undertaken, and two Soviet ships, the *Selenga* and the *Vladimir Mayakovsky*, were intercepted in January and February 1940, the latter with a cargo of copper for Vladivostok.

The adoption of a policy of economic pressure was accompanied by the discussion of far-reaching plans for intervention in the Finnish war and for action against Soviet oil in the Middle East, and the gulf that seemed to be opening between Russia and the Allies was increased by reports of a Soviet-German economic agreement. Long and difficult negotiations

produced the agreement of 11 February 1940¹ and provided for Soviet deliveries to Germany and the Protectorate of Bohemia and Moravia during the first twelve months. Raw materials to the value of Rm. 650 million. The deliveries were to include mineral oil (900,000 tons), phosphates (500,000 tons), iron ore (500,000 tons), scrap iron and pig iron (300,000 tons), cotton (100,000 tons), chrome ores (100,000 tons), legumes and grain for cattle (1 million tons), platinum (2,400 kg.), and numerous other raw materials. Arrangements were made and freight charges fixed for German deliveries to and from Afghanistan, Persia, Rumania, and Far Eastern countries. Provision was also made for 'generous' Soviet help in the purchase of raw materials in foreign countries. The value of Soviet deliveries and services in the first twelve months was estimated at about Rm. 800 million, and Dr. Schnurre, the chief German negotiator, believed that, if this volume of imports could be attained 'the effects of the English blockade will be decisively weakened'. The chief worry of the Germans was not the willingness of the Soviet Union to deliver, but German reluctance and indeed inability to supply the quantities of industrial products, processes, and installations, and of war *matériel* which the Soviet Government had demanded in return.² Details of this agreement were not known to the Allies for some time, but during the following months the picture was pieced together fairly accurately: On 14 March 1940 the British War Cabinet decided to intensify its pressure on the Soviet Union, and to seek as a first step an agreement with Japan for the limitation of supplies to Russia and Germany. The Supreme War Council confirmed this decision on 28 March, but the Soviet Government showed no desire to widen the breach, and the German invasion of Scandinavia a few days later speedily turned the attention of the Allies to battles nearer home.

All these activities were, then, designed to limit the flow of contraband from and through neutral countries adjacent to Germany, and they absorbed the main attention of the Ministry of Economic Warfare and the Ministère du Blocus. Pre-emption was of relatively little importance as yet. The destruction of German export trade was the declared aim of the British and French Governments after November 1939, but here, too, progress was slow, owing in the main to neutral objections. The closing of the sea routes to German shipping meant that German exports would usually find their way to overseas markets in neutral vessels. The British and French Governments recognized the validity of the provision of the Declaration of Paris (1856) under which privately owned non-contraband enemy goods carried in a neutral vessel were free from seizure, as in the

¹ For the negotiation of this agreement see *Survey for 1939-40: The Initial Triumph of the Axis*, Part VI, section 1, annex I.

² For the text of the agreement and the confidential proposal see *D.G.A.P. vol. no. 67*; see particularly Schnurre's memorandum of 26 February 1940 (*Ibid.*, no. 67).

First World War, Allied action against such goods could never be taken as a reprisal against some appropriate violation of international law. The trade was of great value to Germany as a source of foreign exchange or a means of barter; Germany was believed to have entered the war with assets in gold of only £41 million and some £15 million worth of foreign exchange, and throughout the year, October, and November 1939 her exports were being paid in money. In some cases ownership of German goods passed to neutral holders; in many cases neutrals in the Americas and Japan had either paid or claimed to have paid for, German goods before the war, or before they came into the hands of the British and French contraband control, and had no desire to lose them. A British Order in Council of 29 December 1939 placed an embargo on all goods loaded in an enemy port and on all goods of enemy origin or ownership; a similar declaration was made by the French Government. The Order, which was to take effect from 4 December 1939, was issued as a reprisal against Germany's steadily increasing disregard for the rules of submarine warfare laid down in the Submarine Protocol of 1936,¹ and the rules for the laying of mines of the Hague Convention. But to meet neutral objections goods which had been contracted for before 27 November 1939, paid for before 31 December 1939, and shipped before 1 January 1940 were not to be interfered with. In December later dates of shipping were agreed to; a large number of 'special cases', including goods for medical, relief, or humanitarian purposes, goods vital to the economic life of the importing country, goods ordered before 27 November 1939 and needed for public works programmes, was also drawn up. In addition, persistent Japanese and United States pressure led the British authorities to release many important individual cargoes from time to time during the next twelve months. But gradually, as the orders genuinely placed with German firms before the imposition of the Reprisals Order were carried out, the volume of exemptions and protests died down. It was estimated that by the middle of April 1940 German export trade with overseas customers had been reduced by about 80 per cent. of its pre-war value.

The position in the spring of 1940 was that Allied contraband-control measures were effectively preventing supplies reaching Germany from overseas through the Scandinavian countries, Holland, Belgium, Switzerland, the Balkans, and perhaps Italy; and that, on the other hand, the Allies had been unable to prevent normal supplies of indigenous products from reaching her from these countries and from Russia. Nor had the Allies been able to prevent the far-reaching Soviet-German agreement, which permitted supplies (only a trickle as yet) passing to Germany from American and Far Eastern sources by the Pacific and Siberian

¹ See *Survey for 1936-7*, annex *Survey for 1939*, pp. 63-64, 69.

route.¹ The war as yet had borne very lightly on Germany, and her tendency to be satisfied with her existing rate of war production eased the strain on the civilian population, and made some of the over-optimistic propagandists of the Ministry of Economic Warfare look rather foolish. Then the situation was transformed by the rapid German victories in Norway and Denmark in April 1940, and in Holland, Belgium, and France in May and June. Once more the capacity of the Wehrmacht to secure victory with a relatively small expenditure of effort and material had been demonstrated, and there were incidental consequences of the victory—such as the acquisition of much loot, the engulfing of Switzerland, the moral collapse of Balkan resistance, and the control by the enemy (Italy having now entered the war) of the coastline of the greater part of Western and Central Europe—which meant that Germany had effectively shattered the programme of economic pressure followed by the Allies since September 1939. Economic warfare continued, but it had to be replanned to take account of new conditions and, in some directions, of new opportunities.

(iii) The Role of the United States

It was at this point that British economic-warfare policy began to move rapidly away from its previous dependence on the 1914-17 model, and to find in the Americas the basis for a more solid and comprehensive system based on 'control at source'. Hitherto the classic form of a great European blockade had been the intervention of the British fleet between source and market, and the 1812 war was always a reminder that the neutral American exporter might fight the blockade as vigorously as the European enemy. Now it became possible (as in 1917-18 for a short time) to think in terms of a system of contraband control under which the Governments of producing countries would regulate supplies to the European continent, and control at sea, in so far as it was still exercised, would serve only as a sanction and advanced check on an elaborate system of control in depth.

Britain, then, drew one advantage of immediate value and of immense ultimate importance from the changed situation in Europe: the increased and increasing co-operation of the United States in the economic blockade. Hitherto contraband control, in following the traditional system of examining cargoes and papers mainly in European waters, had called forth in turn some American protests on traditional lines against the blockade, and in January 1940 there had been a moment of serious crisis in Anglo-American relations over this issue. The State Department had made

¹ See below, pp. 42-44, and *Survey* for 1939-46: *British Trade and the Axis*, Part VI, section i, annex I and Part VIII, section i(d).

formal protests in December 1939 against examination of mails, and the examination of United States mails, and *an aide-mémoire* in January 1940,¹ which was published before the British Embassy had had time to reply, complained of unwarrantable delays to, and discrimination against, United States shipping in the Mediterranean. But the American public seemed bewildered rather than indignant, and the arrival in Washington of an Anglo-French mission under F. T. A. Ashton-Gwatkin and Professor Charles Rist soon created a better atmosphere. On 29 January the British Government agreed to suspend the examination of United States ships for contraband in northern waters, and plans were discussed for the setting up of a British contraband-control base in New Brunswick. This scheme, which would have been almost unworkable, fortunately fell through owing to the German invasion of Norway, but it illustrates the complexities of the American position. The United States was subject to three definitions of neutrality: a general declaration of September 1939² establishing for United States citizens the normal rights and duties of neutrals under international law; the Neutrality Act, signed by the President on 4 November 1939;³ and the Panamá Convention's Declaration of 3 October 1939,⁴ binding on all the American republics. Under the Neutrality Act, which made it unlawful for any United States ship to go to belligerent ports in Europe or Africa as far south as the Canary Islands, but allowed them to go to Russian ports, Norwegian ports including and north of Bergen, and the Mediterranean, there was nothing to prevent contraband flowing into Germany through these neutral ports, and if United States ships were diverted for examination to British or French control bases there would be unpleasant possibilities of damage by German mines or submarines. The Panamá 'safety zone' established an area varying in width from 300 to 1,000 miles off the coasts of the American continent south of Canada from which belligerent action was excluded; this effectively prevented the exercise of contraband control from British or French bases in the Caribbean, the only area in which it would have been practicable to intercept contraband passing from Latin American ports on the Atlantic through the Panamá Canal to German destinations through Siberia. Many of these difficulties had been anticipated, however, by the British authorities, and the navicert system had seemed to provide a solution. Under this system exporters in the United States, Argentina, Uruguay, and Brazil had been invited from

¹ See *Department of State Bulletin*, 6 January 1940, pp. 3-5, and 27 January 1940, pp. 93-94.

² See *World Peace Foundation Documents on Economic Warfare*, *British Documents*, 1939, pp. 2-4, and *Journal of the Royal United Services Institution*, 1939, pp. 627-38.

³ See *Journal of the Royal United Services Institution*, 1939, pp. 115-17; *Survey* for 1939-46: *The Allied Economic Warfare*, Part VI, section i(1).

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PART II

WESTERN EUROPE DOWN TO THE
COLLAPSE OF FRANCE

(i) Denmark: Political Antecedents to the German Invasion

By Agnes H. Hicks

At the outbreak of war Denmark's position differed from one of her neighbours in several important respects. She had no natural defences against Germany and had entered into a non-aggression pact with her; and she was very conscious that, in case of an attack by her southern neighbour, she could not reckon on help from the Western Powers. Her Prime Minister, Thorvald Stauning, and her Foreign Minister, Pétér Munch, had been told so by Eden in the spring of 1937. In judging Denmark's attitude towards Germany and her foreign policy in general early in the war, therefore, one must consider the effect which these facts—especially the British warning—were bound to have on Danish leaders. They knew that Denmark would stand alone.¹ A statement by Churchill early in 1940 further confirmed the British attitude. Speaking to Scandinavian journalists in London, he said to the Danes:

I cannot blame Denmark. The others have at least a ditch across which they can defy the tiger; Denmark is so terribly close to Germany that it would be impossible to help her. In any case, I do not wish to give Denmark any guarantee. . . . Denmark has a pact with Germany—though I do not doubt that the Germans would not hesitate to overrun her on the day it suits them.²

Although inter-Scandinavian relations had always been close in the cultural and economic field, Denmark could not reckon on military assistance from her northern neighbours either. At a meeting at Lund in March 1937 a Swedish overture to unite the three countries in a mutual defence pact had been rejected by Stauning on the ground that Denmark had nothing to fear. Denmark could not afford to show that she was afraid.

At the end of August 1939 the Foreign Ministers of Denmark, Norway, Sweden, and Finland agreed that the four countries should remain neutral

¹ Denmark: *Bilag til Betænkning* [from no. 11 onwards *Beretning*]; *til Folketinget* . . . I. *Akte-Møter Stenografiske Referater* (Copenhagen, Schultz, 1945), coll. 579-82; Denmark: *Beretning til Folketinget* . . . II (Copenhagen, Schultz, 1946), p. 37. [The four parts of this series cited in the following pages will be referred to hereafter as *Betænkning I*, *Bilag til Betænkning I*, *Beretning II*, *Bilag til Beretning II*.]

² *Bilag til Betænkning I: Referater*, col. 68.

DENMARK

of a major part. Official statements of the cabinet were issued in October 1939 when Germany attacked Poland, and in November when Great Britain and France began their attack on Germany. It was a doubtful policy in the neutrality pact but it was a policy which was to come into force in 1938. Stauning, Prime Minister of the Social Democratic Party, when in office, was 'a good Dane'; the Foreign Minister, Pétér Munch, was a pacifist. Both were men quite unsuited to give a lead to a country in an international crisis. Stauning's attempt, early in September, to induce the Danes to collaborate with the Government on a consultative basis was unsuccessful.

The Rigsdag met on 1 September to receive news of the German attack and to discuss the defence forces were inadequate to carry out the task of protecting the country's neutrality. The measures were inadequate—consisting, as they did, mainly of the call-up for brief periods only, of one or two year-groups of recruits. Fortifications asked for by the General Staff before the war were never undertaken; no serious preparations made to block roads, mine bridges, &c. In fact, a Danish military critic, Colonel Mikkelsen, is justified in saying that Denmark's fall on 9 April 1940 was 'a consequence of neglect and lack of will in previous days. . . . The Danes lulled themselves into a happy-go-lucky state of mind and had, in other words, the government they deserved.'³ When in 1945 Munch faced a tribunal which was investigating the events leading up to the German occupation of Denmark on 9 April, he declared that the measures then existing were adequate to deal with the task of protecting Denmark's neutrality. An increase in their strength would not have effectively improved her position in the event of an outright attack. Nevertheless no additional measures were taken. A parliamentary committee was set up in December to discuss military measures with Alsing Andersen, the Defence Minister, and ensure his keeping in touch with representatives of the four main political parties.⁴ Post-war investigations proved, however, that the Minister did not always keep the Committee informed about demands for increases in the defence forces submitted to him by the Chiefs of Staff, which began in April 1939 and became more urgent as Denmark's position became more precarious. These demands were not acceded to,⁵ but an order issued by the War Ministry on 6 September 1939 was not rescinded

³ Denmark: (R.I.I.A.): *Norway and the War, September 1939-December 1940*, p. 27, no. 5.

⁴ *League of Nations Treaty Series*, vol. 183, no. 4365, p. 293.

⁵ Colonel R. L. M. Mikkelsen: *The Danish Army on April 9, 1940 in Denmark during the German Occupation*, ed. Borge Ousé (Copenhagen, Scandinavian Publishing Company, Allen & Unwin, 1946), p. 13-4.

⁶ *Bilag til Betænkning II: Referater*, col. 279.

⁷ *Bilag til Betænkning II*, 3 October 1939.

⁸ *Bilag til Betænkning II: Referater*, col. 381-2.

lead to Danish counter-measures. The question of a call-up of extra troops might even arise. The German Minister warned Munch that this would be most unfortunate and might well be misinterpreted by Berlin. A meeting between von Renthe-Fink and Stauning was arranged for the following day.¹ At a routine meeting of foreign envoys a little later, the French Minister officially reported the mine-laying, but the British Minister had no instructions to make a statement. Munch requested that an expression of the Danish Government's deep concern at this infringement of Norway's neutrality should be conveyed to the French and British Governments. 'Allied action', he said, 'had greatly endangered both Norway's and Sweden's position, while Denmark herself now seemed less immediately threatened.' All the Ministers apparently shared Munch's view that Denmark was not in immediate danger.

Towards evening on 8 April von Renthe-Fink pressed Munch for a reply to the 'question' that he had put to him that morning. Neither Munch nor Mohr was under the impression that a question had been asked. It transpired, however, that the German Minister expected an official Danish response to his suggestion that Denmark might possibly become involved in the consequences of British mine-laying; and he also wished to be reassured that the Danish Government would not call up further troops. Munch thereupon drafted a statement to this effect which was telephoned to von Renthe-Fink. It assured the Minister that the Danish Government, in case any difficulties should arise, would 'strive to eliminate them in the same friendly spirit in which complicated questions between Denmark and Germany have hitherto been solved'.²

Late that evening Mohr found a further report from Zahle awaiting him at the Ministry, suggesting that the German fleet, which had sailed from Swinemünde, might be heading for Narvik, and warning the Danish Government that there was no reason for optimism. Whether German action against Norway was of advantage to Germany or not would be a matter which the Germans themselves would decide, regardless of what the Danish Government thought. The two officials considered the despatch to be of no special importance and took no action,³ although the despatch contained a postscript stating that the Swedish Minister in Berlin had gathered that German plans viewed the possibility of the occupation of Denmark and Norway.

At 4 a.m. on 9 April von Renthe-Fink called on Munch in agreement with the Danish Foreign Minister at his request. Munch, who had been informed the Prime Minister, Stauning, had been informed of the German

Government and announced that German troops were crossing the frontier and landing at several points along the coast. He urged that the Danish troops should be forbidden to offer resistance, which could only lead to bloodshed, and he asked for an immediate reply defining the Danish Government's attitude, with the threat that German fighter aircraft would shortly arrive over Copenhagen ready to attack. The Foreign Minister protested against this violation of Denmark's neutrality and asked for time to advise the King and the Prime Minister. This was conceded, but the German Minister stressed the extreme urgency of the matter.

Meanwhile the War Department and the Admiralty had been notified that the invasion had started and that landings had been made in Copenhagen itself. Just after 5 a.m. Stauning, Munch, and the Defence Minister, with the Chiefs of Staff, called on the King. It was agreed that effective resistance was impossible, although General Prior (Chief of Staff Army) urged that it should be continued. The remainder of those present argued, however, that this would make no difference to the result. The Danish Government would still be obliged to arrive at a peaceful arrangement with the German Government, but, in this event, under less favourable conditions. The meeting ended at 6 a.m. with the grant of Royal assent to the decision to discontinue resistance. Von Renthe-Fink was informed accordingly, and the defence forces were instructed to cease firing. The armed forces at the frontier had resisted bravely and had lost a number of men.

A meeting of Ministers held after this conference decided to summon the Rigsdag in the afternoon and to invite the Opposition to join the Government. This invitation was accepted.

(ii) Norway: Political Antecedents to the German Invasion

By Agnes H. Hicks

In 1939 Norway was, apart from Sweden, the only European country which had enjoyed unbroken peace since 1814, i.e. for more than four generations. The outbreak of war in 1939, therefore, found Norway ill-prepared for defending herself. All through the period between the two world wars her Government had followed a policy of living and keeping down to a minimum the expenditure in money and men for the country's defence, because a genuine moral value was attached to Norway's pacific tradition. The Government and the people fancied that the world was

ensured by pacts, and in the League of Nations an international organization had been created which was a further guarantee that there would be peaceful solutions of international difficulties. Thus, in Norwegian eyes, the danger of war was greatly diminished, if not entirely eliminated.¹ Nevertheless, a policy of providing for more effective national defence was not without supporters in Norway. Two private organizations—'Norges Forsvarsforening' (Norwegian Defence Association) and 'Foreningen for Norges Sjøforsvar' (Association for Norwegian Naval Defence) did a great deal to spread knowledge about defence and to stimulate public interest in it; but their members were in a minority. It may be said that all political parties bore a share in the responsibility for the weakening in Norwegian defence which resulted from the legislation of 1927 and 1933, and that the regulations under the latter were carried out in spite of bitter and emphatic protests by the military authorities. In apportioning the responsibility, however, it must be borne in mind that, from 1927 onwards, Labour was the strongest single party and that its influence could not be ignored by any Government in power.

Such were the circumstances in which the Labour Party took office in March 1935. Johan Nygaardsvold, the Prime Minister, favoured pacifism, and Professor Halvdan Koht, the Foreign Minister, as well as Fredrik Monsen, the Minister for Defence,² were out-and-out pacifists. A fear expressed by Koht's opponents, that—as a scholar—his foreign policy might be unrealistic proved unfounded. Koht was a realist,³ but it was noticeable, for instance during the Italo-Ethiopian conflict, that he was extremely reluctant to commit Norway in any way, although he did nothing which might have been interpreted as a breach of her obligations under the League Covenant. It was in keeping with this policy that Norway was the first, and, as it turned out, the only one, of the Scandinavian states to ratify the naval treaty with Great Britain in December 1933, which was visualized as a preparation for a general agreement limiting naval armaments.⁴

As to Norway's relations with her Scandinavian neighbours, Koht's policy was governed by extreme caution and by a refusal to discuss military matters with them. He argued that military collaboration would lead to the strengthening of Norway's means of defence, and, for Koht, this was tantamount to rearmament, to which he was rigorously opposed.⁵ It seems strange, therefore, that when, shortly before the war, Hitler asked whether Norway felt herself threatened and offered her a non-aggression

¹ Norway, Storting: *Innstilling fra Interparlamentariske kommisjonen av 1945* (Oslo, H. Aschehoug (W. Nygaard), 1945), p. 14. [This will be referred to hereafter as *Innstilling*.]

² C. J. Hambro: *Historisk Supplement* (Oslo, Aschehoug Forlag, 1947), chapter V.

³ Trygve Lie: *Love eller da; Norge i Krig* (Oslo, Tiden Norsk Forlag, 1955), pp. 6–7.

⁴ Halvdan Koht: *Norway Neutral and onward* (London, Hutchinson, 1941), pp. 13–14.

⁵ *Innstilling*, pp. 21–22.

pact, the answer to both questions was 'no'. Koht's view, shared by the Storting, was that such a pact was unnecessary in peace time and valueless in time of war, and that, moreover, it might create the impression that Norway was on friendlier terms with Germany than other countries were. This would have been intolerable to the Norwegian people, who, though anxious to remain out of war, were, nevertheless, at heart on the side of the Allies. It was in keeping with this desire to remain neutral that the Norwegian Government rebuffed certain unofficial British and French suggestions, made to Norway early in 1939, for the formation of a 'Peace Front'. C. J. Hambro, the President of the Storting, argued that such a guarantee was not desirable, because 'a neutrality guaranteed from one quarter ceases to be neutral if the case arises'.¹

Thus, down to the summer of 1939, the Norwegian Government, supported by the majority of the people, had been observing a correct attitude towards all foreign Powers. Norway had extricated herself from the commitment, under the Covenant of the League of Nations, to take part in imposing sanctions,² and she stood outside all European power combinations; but she had arrangements for collaborating with her Scandinavian neighbours in fields other than the military one. Her Labour Government was mainly pacifist, but there were signs that the party was becoming divided against itself, as some members realized that developments in Germany might threaten Norway's democratic institutions.³ Unfortunately the war overtook Norway before this feeling could crystallize into effective action. The Norwegians had pursued an anti-defence policy too long to be able to change their attitude quickly. Moreover, there was still some sympathy for Germany among the bourgeois parties and some appreciation of German ideas,⁴ and these views were being expressed in a few Right-wing newspapers.⁵ Nor could the neglect of years be made good quickly.⁶ Defence was totally inadequate; there was not even any unity of direction. Defence arrangements were under the command of the Defence Department with a non-military chief. It is true that a Defence Council had been set up in 1934, but it had not met since 1937 and did not meet again until 1 September 1939. The state of civil defence was deplorable. Measures had been limited to passive anti-aircraft defence, such as bomb shelters. With the exception of Oslo, Bergen, and four or five of the larger towns, no town had active anti-aircraft defences. The Committee set up by the Storting after the war to investigate the responsibility of the Government of the day for the inadequacy of Norway's state of defence reported that Koht, Nygaardsvold, and the Minister of Defence were all

¹ *Documents (R.I.S.A.): Norway and the War, September 1939–December 1940*, pp. 2–3.

² See Survey for 1939, ii, 489–90; *Storting* for 1937, i, 348.

³ *Innstilling*, p. 4.

⁴ e.g. *Nationen*, the organ of the Farmers' Party.

⁵ *D. Ger. F.P.* viii, no. 171.

⁶ *Innstilling*, pp. 42–47.

equally to blame. Nor could the whole Government be acquitted on the ground that they had the majority of the Storting behind them. A large number of men supported them, not because, but in spite, of the weakness of their defence policy.¹

As far as the supply situation was concerned, the measures taken were more effective. A Crisis Committee (*Kriseutvalg*) had been appointed by Royal decree in March 1938 to safeguard civil supplies, and a sum of Kr. 15 million had been voted by the Storting for the purpose. This Committee remained in being until the autumn of 1939, when it was replaced by a newly formed Supply Department. On 30 June 1939 goods to the value of Kr. 10 million had been bought, and purchases continued, thanks to the liberal interpretation given to the original grant by the Storting. Existing food supplies were calculated to be sufficient for from three to nine months, and artificial manure supplies for from one to two and a half years. Petrol supplies were estimated to be sufficient for two months' consumption, but they were requisitioned for defence in September 1939, and rationing was introduced at once.

King Haakon formally proclaimed Norway's neutrality on 1 September 1939² and Norway was a party to the declarations of Scandinavian neutrality on 1 and 3 September.³ Consultations between the Scandinavian states on questions arising out of their neutrality continued to be held from time to time. Germany assured Norway immediately that her neutrality would be respected, provided that she maintained a strictly neutral policy, and Great Britain gave a similar promise on 22 September, 'so long as Germany respects Norway's neutrality'. The Norwegian 'neutrality watch' was called up on 1 September. It was strengthened in Northern Norway on 19 October, largely on account of the Russo-Finnish war.

Certain changes were made in the Cabinet immediately. The two main changes were that the Prime Minister was relieved of departmental duties and that a Supply Department under Trygve Lie was set up. In December the Defence Minister, Monsen, retired owing to ill health and was succeeded by Colonel Birger Ljungberg. The appointment of a soldier to this post was due to a desire to remove questions of defence from the arena of party politics in view of the gravity of the international situation. Ljungberg's appointment proved a mistake, however, as he was unequal to his task, while his appointment belted the Government into an unjustified sense of security. Early in January 1940 a suggestion to form a Coalition Government was mooted, but it was rejected because the Prime Minister was strongly opposed to it. Thus the Labour Government remained in office until the invasion.

¹ *Instilling*, pp. 46, 76 seqq.

² *Documents* (R.I.I.A.), *Norway and the War*, p. 27.

³ See above, pp. 102-3.

⁴ *Instilling*, *Bilder*, vol. I, p. 13.

the international situation caused her soon to begin to experience difficulties in spite of the promises of the belligerents. The British restricted Norwegian ships, while the British restricted Norway's trade with Germany. Nevertheless, Norway continued to maintain commercial relations with both belligerents—though this to a decreasing extent, and in spite of increasing both German and Franco-British displeasure. The German Government and other neutrals against complying with the British blockade for facilitating the British blockades of Germany,¹ and the British Government against the agreement concluded with Great Britain by the Norwegian National Association of Shipowners, under which half the Norwegian merchant fleet was chartered to the Allies.² The Allies showed increasing irritation at the shipments of North Swedish iron ore to Germany through Norwegian territorial waters.

On 5 September 1939 Churchill made his first attempt to deprive Germany of Swedish ore supplies by submitting to his colleagues in Whitehall a proposal to mine the Norwegian Leads and thus force the ore ships into non-territorial waters. He was well aware of the objections to this course and of the possibility of German retaliation against Norway, but he felt that the needs of war made such action necessary for Great Britain. On this occasion his proposal was not adopted,³ but he renewed it on 27 November, and on 16 December circulated a memorandum on the subject, which the Cabinet considered on the 22nd.⁴ During the same period the Allied press published reports of German sinkings of certain Allied ships off the Norwegian coast,⁵ but it transpired later on that there had been only one case in which the sinking had actually been the work of a German U-boat operating inside Norwegian territorial waters. On 6 January 1940 the Norwegian Government were officially advised that 'the British Government were taking appropriate measures to prevent the use of Norwegian territorial waters by German ships and trade',⁶ and that, for this purpose, it would be necessary for British naval forces at times 'to enter and operate in Norwegian waters'.⁷ At Koht's request King Haakon interceded with King George about this, and the resolution was cancelled. The British Government, however, did not cease to feel concern over German shipments of ore from Sweden through Norwegian territorial waters, and an attempt, on Koht's part, to persuade Sweden to divert some of them from the Norwegian port of Narvik, on the North Sea, to the

¹ *D.G. I.F.*, VIII, no. 71; see also no. 165.

² Koht, *Norway Neutral and Invaded*, pp. 27-29.

³ Koht, *The War at Sea, 1939-1945*, I, 136; Churchill, I, 420-4, U.S. edition, I, 531-6.

⁴ *Ibid.*, pp. 430-3, 437-8, and 544-8, 570-80 respectively; Derry, *The Campaign in Norway*, pp. 11-12.

⁵ See *D.G. I.F.*, VIII, no. 569 of 21 January 1940, for a report by Ribbentrop, the German Minister for Foreign Affairs, of a conversation on this subject with Koht (cf. *Ibid.*, no. 511).

⁶ *Ibid.*, no. 511.

⁷ *Ibid.*, no. 511, p. 32; cf. *Ibid.*, op. cit. I, 136; Derry, op. cit. p. 12.

Swedish port of Luleå, on the Baltic, was unsuccessful, largely, it may be assumed, because this diversion might have had an adverse effect on Sweden's relations with the Allies. At the end of January 1940 Britain suggested that Norway herself might mine her territorial waters and the Norwegian Government promised to consider the proposal. It was not submitted to the Defence Department until 20 March,¹ and, in the latter half of March, Koht suggested to the British Government and also to the Allied press that it was in the Allies' interest to let the matter rest, since shipments of ore to Great Britain had increased, while shipments to Germany had decreased.² Meanwhile, the Russo-Finnish War (30 November 1939–12 March 1940) had exposed Norway, and also Sweden, to the risk of partial occupation by Allied forces who, on their way to bringing help to Finland, were incidentally to secure control of Narvik and of the Swedish iron ore mines.³

There were also minor violations of Norwegian neutrality during this period, in the shape of flights by belligerent aircraft over Norwegian territory. Such incidents were always followed by prompt Norwegian protests to the offending Power when it was possible to identify the trespassing aircraft. The German Government usually denied the facts, while the British (and, during the Finnish war, the Russians) usually admitted the trespass and expressed regret.⁴ More serious consequences might have followed from the entry of belligerent warships into Norwegian waters; but, at this stage, this rarely occurred. One of the more spectacular cases was that of the *City of Flint*, an American merchantman captured by the German navy. In the absence of any provision under international law directing the release of a neutral ship captured by a belligerent Power when such a vessel entered neutral waters, the Norwegians allowed the ship to proceed along the Norwegian coast. When, however, her German captain anchored at Haugesund, the legal position changed, and the Norwegian authorities promptly released the ship and interned her German officers and prize crew. Violent German protests, accompanied by threats, gradually subsided when it was realized in Berlin that the Norwegians intended to stand by their rights under international law.⁵ Norwegian action in this case was creditable to the Norwegian Government; but in other cases, notably that of the German auxiliary naval vessel *Westerwald*, Norway showed unnecessary subservience to Germany.⁶ The most important naval action affecting Norwegian neutrality in this

¹ The delay was perhaps due partly to the *Altmark* affair and partly to considerations arising out of the Russo-Finnish war.

² *Intelligence*, pp. 57–59.

³ See above, p. 79, note 3.

⁴ Koht: *Norway Neutral and Invaded*, p. 32.

⁵ *Ibid.*, pp. 32–33; *Intelligence*, pp. 57–59.

⁶ *Ibid.*

of the war was carried out by the British navy on 16 February 1940. The German destroyer *Greif* entered Jøssingfjord and forced her way along the coast to the German auxiliary cruiser *Altmark* (which had acted as a mine-sweeper, *Grün Spee*). A boarding party led by Captain (later admiral of the fleet) Sir Philip Vian overpowered the German crew and liberated 299 British prisoners of war, captured by the *Graf Spee*, who had been confined on board the *Altmark*.¹ During the action some shots were fired and 20 Germans were killed. On the merits of the case the British action is almost universally deserved sympathy, and the British Government had an admirable legal case.² The Norwegian White Book claims that the Norwegians were justified in permitting the *Altmark* to enter the 'outer' territorial waters of Norway, but criticizes the Commanding Admiral—his decision was supported by the Foreign Affairs Committee—for allowing her to pass the naval port of Bergen. His decision, not 'in violation of Norway's neutrality' is, on the other hand, approved in the same Norwegian White Book, on the grounds that 'a neutral state is not obliged under international law to use force against obvious superior forces if its neutrality is infringed', and that, moreover, 'we were anxious to avoid Norway's being drawn into the war on Germany's side as a direct consequence of a fight in the Jøssingfjord.'³ In a statement in the Storting, Koht declared that resistance would have been senseless. This pronouncement was contradicted by Koht's notifications to British and German diplomats that, 'whatever happened', Norway would 'shoot' from now onwards. But both the British and the German Government had come to feel, by now, that Norway was unable—and perhaps even unwilling—to defend her neutrality,⁴ and German threats to Norway became ominous. Hitler now definitely decided to invade Norway,⁵ while the British decided to mine the Norwegian Leads, with the hope of provoking a German attack on Norway that would open the way for Allied troops to land in Norway, not as invaders, but as a rescue party.⁶ Koht now urged the Allies, through Washington, to show greater understanding for the dangers of Norway's position; but the Allies' tone towards Norway also changed, and British statesmen now repeatedly declared that the

¹ See Koht: *The War at Sea, 1939–1945*, i, 151–53; Derry: *The Campaign in Norway*, pp. 13–14. See also *D. Cir. F. O.*, VIII, nos. 615, 618, 626.

² *Intelligence*, vol. I, pp. 269–91.

³ *Intelligence*, pp. 59–61.

⁴ *Ibid.*, p. 61.

⁵ Derry, op. cit., pp. 17–18. In Germany, Grand Admiral Raeder had mooted the question of landing troops in Norway within a few weeks of the beginning of the war (see *D. Cir. F. O.*, VIII, nos. 137 of 2 October 1939). A plan materialized on 16 December 1939 and had been decided by 13 January 1940 (*Ibid.*, no. 537). Hitler's directive of 1 March 1940 for the occupation of Denmark and Norway will be found *Ibid.*, no. 641. On 2 March 1940 Britain was at first surprised by the announcement of Hitler's Government's designs, but it then, in no uncertain terms, declared its opposition to the German move (see *Ibid.*, no. 650, p. 817; no. 652).

⁶ See *Intelligence*, pp. 14–16, R. 222, op. cit. i, 157.

Scandinavian states ought not to remain neutral but ought, for their own sake, to join the West European Powers.¹

While Norway was implicated in the war at sea from the very outbreak of hostilities, her policy of neutrality underwent its first serious trial on the military-political side when Russia attacked Finland.² Popular feeling in Norway was all on Finland's side, but nobody in a responsible political position was prepared to act on this feeling. The Prime Minister, in particular, threw the whole weight of his authority on the side of remaining neutral in the strictest sense of the word and Koht carried out this policy willingly.³ Moreover, Bräuer, the German Minister in Oslo, repeatedly warned the Norwegian Government that any official move to render military assistance to Finland would lead to German reprisals. Consequently the Government disregarded the wishes of a minority in the Storting, headed by J. L. Mowinckel and Hambro and enjoying widespread support among the people, that a policy more in line with popular sentiment should be pursued. In spite of this cautious attitude the Soviet Government protested on 6 January against the anti-Russian press campaign in Norway. The Norwegian Government's reply was firm and dignified. The accusations were rejected as incorrect and the firmness of Norway's resolve to maintain her neutrality was emphasized. Officially the Russian Government found the reply satisfactory,⁴ but unofficially Moscow Radio, on 15 January, described it as unsatisfactory. The Norwegian was never allowed to forget that her ship of state was navigating dangerous waters; but this did not prevent the Norwegians from giving Finland all the help in their power within the rules of neutrality. Koht stated at Geneva on 14 December that although compared with Swedish help to Finland Norway's help looked little, 'nevertheless it is true that never in Norway have we had collections which brought in such great value both in monies and goods as those to help Finland'. Moreover, when at the end of December 1939 the Allies asked, in a note to Norway (and Sweden), for facilities to send war materials to Finland across Scandinavian territory, these facilities were conceded by both countries as not constituting a breach of neutrality.⁵ On the other hand an Allied request on 2 March, that, in the event of a Finnish appeal for Allied military aid, Allied troops should be granted passage through the Scandinavian countries, was refused—by Sweden on 2 March and by Norway

¹ Cf. Chamberlain in the House of Commons, 19 March 1940 (H.C. Deb. 5th ser., vol. 358, col. 1842). When, two months earlier (on 20 January), Churchill had broadcast to the neutrals to come into the war on the Allies' side, Koht, in talking to the German Minister in Oslo, had described the appeal as 'provocative and silly' (*D.Ger.F.P.* viii, no. 565).

² For the threat from the side of the Allies see above, pp. 70–80, 85.

³ *Imstilling*, p. 56.

⁴ *Ibid.* p. 59.

⁵ Koht: *Norway Neutral and Invaded*, p. 36. On 3 January 1940 Bräuer reported to Berlin his opinion that Norway would not obstruct the transit to Finland of French and British arms and 'volunteers' not organized in military units (*D.Ger.F.P.* viii, no. 503).

on 2 March. The only occasion on which a slight relaxation of Koht's interpretation of neutrality was noticeable was on the 10th, part in connexion with the possibility of a defensive alliance between the Scandinavian states and Finland after the conclusion of the Russo-Finnish Peace Treaty of 12 March 1940;² but, when the Boy of Clermont sent it clear that such a pact would be regarded as a breach of the treaty on Finland's part, the suggestion was dropped.

Norwegian trade negotiations with the belligerents came to a head in Oslo a week after the *Altmark* affair. The German-Norwegian agreement³—which was approved by the British delegates—was signed on 25 February, while the Anglo-Norwegian agreement⁴ was not completed until 11 March, as it required the consent of the British Dominions. On 2 April 1940, in the House of Commons, Chamberlain alluded to the trade question, stressing that 'all the war trade agreements into which we have entered contain stipulations regulating the exports of neutral countries' own domestic produce to Germany'.⁵ It will be seen that he did not expressly mention ore shipments, because these were, in fact, Swedish exports, but Koht took the view that, under the rule of neutrality and in view of assurances given by Norway to Germany on 1 September 1939,⁶ Norway was bound to permit and protect 'peaceable transport' inside her waters. British control over this traffic was tightened up, however, and occasionally British warships penetrated into Norwegian waters.

Meanwhile, Germany and the Allies had been working out simultaneous and parallel military designs upon Norway, after the Allies' previous designs (in connexion with their dream of bringing aid to Finland against the Soviet Union) had been overtaken and put out of court by Finland's capitulation.

On 21 March Reynaud became President of the French Council of Ministers and at once began to press the British Government again to adopt an aggressive policy in Scandinavia.

It was now decided to start by solving the original problem of the passage of the iron ore south from Narvik by the original method, namely, the mining of the Leads so as to drive enemy shipping out of Norwegian territorial waters. . . . This was to be followed by the laying of minefields in Norwegian waters, of which no previous warning would be given to the Norwegian Government. This in turn, it was supposed, might be followed by German counter-action against Norwegian territory; and this, by the acceptance by Norway of an Allied occupation of Narvik and the three southern ports. . . . Expectations about Sweden

¹ Koht, *op. cit.* pp. 36–37. See also above, pp. 80–81.

² See above, p. 80.

³ See Nils Østvik: *Norge i brennpunktet fra februar til 17 april 1940*, Vol. 1: *Handelstraktaten* (Oslo, J. G. Tanum for Krigshistoriske Arkiv), 1950, p. 317.

⁴ *Ibid.* p. 317.

⁵ H.C. Deb. 5th ser., vol. 359, col. 47.

⁶ See above, p. 49.

were less clear, but it is believed that circumstances would enable the force to land at Narvik, and to re-embark, as the champion of Sweden against aggression, after the war.

On the other side the Germans had been pushing ahead with their plans for the occupation of Norway.² Their operations were originally intended to begin on 25 March; the British plan, which was accepted by the Supreme War Council on 20 March, called for the dispatch of 'justificatory' notes to Norway and Sweden on 1 or 2 April, to be followed by mine-laying on 5 April. The persistence of ice in the Baltic caused the Germans to postpone their task until 9 April; and the British date was also postponed for a few days in consequence of French objections to an associated British plan for sowing mines in the Rhine. British notes to the Norwegian and Swedish Governments were delivered on 5 April, and by that time the press in the two Scandinavian capitals was already commenting adversely on the supposed Allied intentions.³ The mine-laying was due to follow on 8 April. It thus came about that German and Anglo-French naval forces were converging simultaneously on Norway for the execution of their respective plans. The German plan was, however, for a series of decisive blows delivered at a number of different points simultaneously before dawn on 9 April, while the British plan was 'for a succession of conditional landings, which would only take place if evidence of a suitably hostile German reaction to the minelaying were available immediately, and in that event would follow it at an interval ranging from one to four and a half days'.⁴

When Norway entered the crisis of April 1940 only a small part of her defensive power was mobilized. No mines had been laid, coastal fortresses were only partially manned, and no more than a small proportion of the army was under arms. In spite of the disquieting developments before April, Norway's measures for defence retained the character of a 'neutrality watch' to the end. Koht—and his opinion was shared by Mowinckel and Hambro—considered the position to be less dangerous than it had been in 1914–18, and Hambro believed that the Allies' superiority in the air and Germany's lack of petrol would make any effective action on Germany's part impossible.⁵ In consequence the Government was not disposed to yield to its military advisers' pressure to increase Norwegian preparedness, particularly as, according to the Norwegian White Book, some pressure was exercised at the time by Hambro, Mowinckel, and Jens Hundseld to limit military dispositions.⁶ This allegation has, however,

¹ Derry: *The Campaign in Norway*, pp. 14–15.

² *Ibid.* pp. 16–21.

³ For the official Norwegian reaction at this date see *Lit. Læst. Nr. 4*, pp. 92–100.

⁴ Derry, *op. cit.* p. 24.

⁵ *Innstilling*, pp. 71, 76, 84.

⁶ *Ibid.* p. 76.

been contradicted by Major-General Lankford according to a statement by General Lankford. General Lankford was a military leftist in such matters, and other members of the Government or to the Foreign Ministry (Department) while military circles were insufficiently informed on the political and military-political situation. The Admiral in Command, Admiral Diesen, stated after the war that he had thought the landing of enemy troops in Norway highly unlikely and had therefore not proposed full mobilization of coastal fortifications, nor had even arranged to send home the majority of the troops attached to them. The post-war Committee of Inquiry set up by the Storting apportioned more blame to the Admiral than to General Lankford for lack of initiative, as the territorial waters were obviously more in the danger zone than was the defence zone on land.² Koht's statement at a meeting of the Storting at Hamar³ on 9 April proves conclusively that he was not feeling any misgivings about the defence position.⁴

Investigations after the war into the files of the Ministry of Foreign Affairs led to the finding of various warnings that German military action against Norway was pending. The London members of the '9th April Government' denied all knowledge of these. It was proved conclusively that, between 5 and 8 April, authoritative reports on the position were received in Oslo from the Norwegian Legation in Berlin, and that Koht, Colonel Ljungberg, and also the General and Admiral in Command all had knowledge of them, but that the other members of the Government were not informed. The first warning of the gravity of the situation came from Arne Scheel, the Norwegian Minister in Berlin, on 29 March.⁵ It was in general terms, and it suggested that danger was threatening from France and Great Britain rather than from Germany. On 3 April, i.e. five days before the laying of mines in Norwegian territorial waters by the British navy was announced to the Norwegian Government by the Allies, the then Norwegian Minister in London, Erik Colban, telegraphed that he had understood distinctly from Philip Noel-Baker, a leading member of the Labour Party, that the British were preparing for direct action against the German iron-ore traffic in Norwegian territorial waters.⁶ On 1 April, and again on 4 April, there were further warnings, this time pointing to Germany as the intending aggressor. These warnings were on the same lines as those which reached Denmark, and were, in fact, based on the same information.⁷ But it was not until 5 April that Norway herself was mentioned as being definitely threatened by Germany. On that day

¹ *Historisk Tidsskrift Supplement*, p. 33.

² *Ibid.* pp. 79–80.

³ The Storting followed later by the King and most of the Government left Oslo for Hamar, and did not return until in the early morning of 9 April (Koht: *Norsk Undertrykt Historie*, p. 77).

⁴ *Ibid.* p. 77.

⁵ *Ibid.* p. 71, 76, 84.

⁶ *Ibid.*

⁷ *Ibid.* pp. 85–86.

warnings were received in Oslo from Copenhagen, Berlin, and Stockholm, those from Copenhagen being based on the information received by the Danish Government from Zahle, their Minister in Berlin. On 4 April a conference of the Parliamentary Committee for Foreign Affairs, Koht had rejected a suggestion that he should make a *démarché* in Berlin on the subject of these 'rumours'. He pointed out that either the rumours were unfounded and in that case were not danger signals, or, alternatively, were true, in which case he would get no reply.¹ When interrogated after the war he explained that similar rumours had circulated in December 1939 and January 1940,² when nothing had materialized. He was not disposed to take these new rumours more seriously.³ He denied ever having received warnings from Sweden, especially a message alleged to have been telephoned to the General Staff by the Swedish Defence Staff.⁴

On 7 April the Norwegian Minister in Copenhagen, August Esmarch, sent a clear warning of imminent German action against Norway; the German fleet had set out westward, obviously to a relatively far distant point. Koht felt sure that it was heading for the Atlantic. One reason why there was a tendency in Oslo to disregard these warnings was because, at the time, both the Government and the Foreign Affairs Committee were exclusively engaged in considering the possible effects of British mine-laying. Nevertheless when, at 3 p.m. on 8 April, the Norwegian Legation in London telephoned announcing an urgent telegraphic message concerning apparent German fleet movements towards Narvik, Koht at once passed this message on to the Admiralty. It stated that German naval forces had been sighted that morning in the North Sea off the Norwegian coast; that they were proceeding northward; and that it was 'strongly suspected that operations against Narvik' were 'intended, and that they could arrive at Narvik before midnight'.⁵ A few hours later an even graver message arrived. Colonel Ljungberg reported to the Storting in secret session that the Commander at Kristiansand had reported the arrival of about 100 Germans from the S.S. *Rio de Janeiro* (torpedoed outside Lillesand that morning) in field-grey uniforms; they had admitted that horses and guns had been on board and that they had heard rumours that they were on their way to Bergen in order to help the Norwegians 'at the request of the Norwegian Government'. The Defence Minister regarded the incident as just another infringement of neutrality, rather than as a warning of imminent attack.⁶ Nor did he heed repeated representa-

¹ *Innstilling*, pp. 86-87; see also above, pp. 105-7.

² At this moment, as stated earlier (see above, p. 106), the OKW was actually planning the invasion of Norway, and conversations between the Germans and Quisling were taking place (*D. Ger. F.P.* viii, nos. 133, 441, 442, 451, 466, 483, 511, 626; *Deuts. Zeitungsber. Norweg.* pp. 17-18).

³ *Innstilling*, p. 48.

⁴ *Ibid.* pp. 37, 92.

⁵ *Ibid.* p. 63.

⁶ *Ibid.* pp. 36, 84ff., 93-94, 95.

tions by the Chief of the General Staff, Colonel R. Hatledal, on 5, 6, and 7 April, nor did he consider the gravity of the situation and the small number of German vessels in the south. On 8 April Colonel Hatledal was supported in these representations by General Laake, and both officers attended a Foreign Affairs Committee meeting that day. In the evening Hatledal pressed Ljungberg for a reply to various proposals that had now been submitted to him, and he was told that the reply would be given on the next morning.¹ The matter was actually discussed during that evening and a proposal for full mobilization was drafted. Ljungberg pointed out that mobilization would take three days, and thereupon the Government compromised on a decision to mobilize two battalions in Østfold, which could assemble more quickly. This decision was taken after Nygaardsvold had expressly asked the Defence Minister for his opinion on whether it was justifiable to deviate from Hatledal's proposal, and had been assured that two battalions would be adequate.

At midnight on 8 April the Admiralty Staff reported that foreign vessels were outside Oslofjord and were trying to force the fortifications. A meeting of the Foreign Affairs Committee was called and was held, with all members present, at 1.30 a.m. on 9 April. Reports were now received that German attacks were extending to Bergen, and the Government then decided to mobilize the army. At 5 a.m. the German ultimatum, submitted by Brüner, was rejected and general mobilization was decided upon. In the King's absence it was not decided on officially or in writing, but it was assumed that all military authorities would be advised by Colonel Ljungberg. General Laake afterwards testified that it was not until 2.30 a.m. that he succeeded in speaking to Ljungberg, over the telephone, in order to persuade him to revive his own mobilization proposals, and not until between 4 and 6 a.m. that the order for general mobilization was sent out. The Defence Minister persisted to the last in his endeavours to keep the order secret, and secrecy would have greatly delayed its coming into effect.² The post-war Committee of Inquiry's finding is that an order for general mobilization was never sent out, since general mobilization certainly never started, and there is no reason to suppose that an order for it, if received, would not have been obeyed, seeing how urgently the General Staff was calling for this decision.³ The records themselves do not clear up this crucial point. The Investigation Committee gives great credit to Colonel Hatledal for his initiative in face of serious difficulties. On his own responsibility he tried to widen the scope of the mobilization order. By a regrettable oversight the Norwegian radio was not destroyed before the Germans entered Oslo, although instructions to destroy it had been issued for by the officials. As a result, Quisling (the leader of the Norwegian Nazi Party) and the Germans were able to take it over and to use

¹ *Ibid.* pp. 63-64.

² *Ibid.* pp. 26, 104.

³ *Ibid.* pp. 105-11.

either. 'In the event of direct attack on Danish territory, this order ran, 'such action must be opposed by all available means without any further order if hostile intentions are evident and beyond doubt, but with due regard to existing circumstances.'

On 4 September Denmark had her first experience of war at close quarters. A British plane dropped a bomb on Esbjerg. At the end of the same month the S.S. *Vendia* was sunk by German action. Neither event caused much concern, and on 3 October the Prime Minister assured the country that there was 'no cause for anxiety. Denmark's neutrality is recognized and we are on friendly terms with all the Powers.'¹ He admitted, however, that the war would make itself increasingly felt. The supply position, especially, could be maintained for only a limited time unless regular deliveries were ensured. Thus Denmark was weak not only from a strategic and military but also from a supply point of view. When, therefore, the Scandinavian Prime and Foreign Ministers met in Copenhagen on 19 September to reaffirm Scandinavian neutrality, they also emphasized their right to safeguard supplies by maintaining traditional trade relations,² including those with the belligerents.

Down to 9 April 1940 these relations with all the belligerents continued to be fairly satisfactory. It is true that imports of British coal stopped and had to be replaced by imports of inferior German coal, and that Danish exports to Great Britain ceased entirely in October owing to German intimidation. They were resumed, however, at the end of the same month, although a diversion of certain exports to Germany was noticeable. Danish imports from Great Britain also showed a tendency to drop, partly owing to German pressure and largely owing to the war at sea. Denmark had actually arrived at an understanding with Germany in the autumn of 1939 that normal exports of agricultural goods to Great Britain should continue, in order to ensure essential British imports to Denmark,³ but the Danish Government confined themselves to formal protests on all these matters and were anxious not to distinguish between Germany and the Western Powers whenever a Danish ship was lost by the action of one of the belligerents. Denmark even joined the Oslo Powers, Italy, and Japan in their protest against the British decision to confiscate all goods of German origin, whatever the nationality of the ship in which they might be found. She did everything to placate and nothing to provoke Germany, blindly hoping that the Allies would appreciate her difficult position and her utter helplessness.

In October 1939 Denmark had to define her attitude towards the Russo-Finnish conflict. Although she had no common frontier with Finland and her interest in Finland's fate was, therefore, not on a par with Norway's

¹ Mikkelsen, op. cit. p. 15.

² *D.Ger.F.P.* viii, no. 71.

³ *Bellingskøbe Nyhedsb.* 3 Oct. 1939.

⁴ *Ibid.*, nos. 113, 118, 125, 163, 164.

and Sweden's, she shared the common Scandinavian opinion in the conflict. Consequently, she joined in attempts to help Finland by diplomatic means but was also a party to the Stockholm Conference of 30 October,¹ when the Finnish President was informed that his country could not count on military help from its Scandinavian neighbours in case of a Russian attack. When Swedish and Norwegian volunteers began to join the Finnish army, Danish young men joined too, though in smaller numbers. A considerable number of young Danes also volunteered to work in Finland in order to release young Finns for military service.

During the remainder of 1939 German intimidation of Denmark continued, until, by the end of the year, Denmark's submission to German demands had reached a stage at which the German had no need to anticipate any serious resistance. On 1 January 1940 the Prime Minister crystallized his Government's defeatist attitude in a broadcast which became known as the '*Head kan det nyde?*' (What time is it?) speech.² It caused consternation all over the country, however, and led to some reaction in the Rigsdag some weeks later. It also made the Danes more 'collaborationist-conscious', although, unfortunately, only where Communists were concerned. Active resentment at the Government's pro-German attitude, in consequence of the Russo-German alliance,³ was manifested, and this led, for instance, to the dismissal of Communists from posts in the trade unions.⁴ No measures were taken to prohibit the activities of members of the Danish Nazi Party and other crypto-Nazi organizations, mainly in southern Jutland, and such men as Frits Clausen, the Nazi member of the Rigsdag, and Dr. Jens Moltke, the representative of the German minority in Denmark, openly carried on their pro-German activities.⁵

On 19 January 1940 the Rigsdag unanimously passed a resolution which was a consequence of Stauning's New Year's broadcast: 'If we are attacked, regardless by whom, we will use the means of defence at our disposal.' No action, however, was taken in pursuance of this resolution and no further defence preparations were made.⁶

The first news of possible German action against Denmark was obtained by the Danish Naval Command. On 8 January Captain Kjelson, Danish naval attaché in Berlin, sent home a despatch reporting that 'pressure would be exercised on Denmark' to induce her to allow the creation of

¹ See above, p. 67.

² *Danish press*, 2 January 1940.

³ For the part played by the Communist International and its national branches in assisting Germany during the first phase of the war see below, pp. 414-15.

⁴ *Tidende* (Telegraphical) (Melbø), 8 January 1940.

⁵ See *L.A.L.*, No. 103, xxxv, 128 (229-1): *Memorandum prepared by the Danish Government concerning Germany's attitude towards Denmark before and during the conflict.*

⁶ *Journal of the Royal Historical Society*, vol. 53, p. 5. Cf. Skolden, *The Danish Army, 1675-1918*, p. 15.

German air bases in North Jutland.¹ The Danish Admiralty did not interpret this message as foreshadowing an attack, and therefore did not pass it on to the General Staff or to the Ministry for Foreign Affairs,² although the Defence Minister appears to have been informed.³ On 13 February Captain Kjolsen sent a further warning,⁴ but this, too, was not shown to Munch and was, in fact, disregarded. At that time the OKW was actually studying the problem of an invasion of Denmark and Norway.⁵

Towards the end of February the Scandinavian Foreign Ministers, meeting in Copenhagen, decided to approach the German Government with a request for an agreement to safeguard neutral shipping to Britain. The Germans fixed a definite date for a conference with the Swedes, but they cancelled the meeting without explanation when the time for it drew near. The Danes never received a reply from the German Foreign Ministry. The cancellation of the Germans' meeting with the Swedes coincided with definite rumours about German troop movements and shipping concentrations near Swinemünde, and the Danish Legation in Berlin received sufficiently precise information to justify the fear that the German attack which was being mounted might be directed against Denmark. This evoked a series of private letters, telephone messages, and telegraphic warnings from members of the Danish Legation in Berlin, most of them from the Minister, Herluf Zahle,⁶ beginning with a letter, dated 1 April 1940, which was unfortunately destroyed by a member of Munch's staff. In regard to this letter Munch took no action at all, but on 4 April he discussed a further communication from the Berlin Legation with the Prime Minister and the King. On 5 April a Cabinet meeting was also informed; but the Cabinet refused to adopt any of the precautionary measures advocated by the Foreign Minister, as Zahle's report was not regarded as sufficiently definite to warrant these. Among these proposed measures were the recall to the colours of certain members of the defence forces and the formation of a coalition government. At the request of the Danish Government, Otto Carl Mohr, Director of the Foreign Ministry, approached the Swedish and Norwegian Ministers to ascertain their Governments' views. Each assured him that his Government thought the news from Berlin exaggerated.⁷ There is a strange discrepancy between this statement by Baron Hamilton, the Swedish Minister, and the fact that his Legation on the same day advised the Danish naval authorities that German military action against Denmark was impending.⁸

¹ *Bilag til Betænkning I: Referatet*, col. 125; *Betænkning II*, p. 15.

² *Bilag til Betænkning I: Referatet*, col. 590.

³ *Ibid.* col. 631.

⁴ *Ibid.* col. 592.

⁵ *D. Ge. P. P.* VIII, p. 517, 614, 650.

⁶ *Betænkning I*, pp. 13-14; *Bilag til Betænkning I*, pp. 9-11; *Betænkning II*, pp. 16, 19; *Bilag II: Betænkning II: Referatet*, coll. 107-8.

⁷ *Bilag til Betænkning II: Referatet*, coll. 77-79.

⁸ *Bilag til Betænkning I: Referatet*, coll. 631-5; *Bilag til Betænkning II: Referatet*, col. 281.

The Foreign Ministry in Berlin was not approached by the Danes in connexion with the proposal, partly because the former Danish Foreign Minister, Erik Scavenius, felt convinced that it would be difficult to elicit the truth from the German Minister in Copenhagen, von Renthe-Fink. But von Renthe-Fink does not appear to have known anything at that time about the proposed attack.⁹ Further communications from Zahle were received on 5, 6, and 7 April.¹⁰ They did not evoke any action on the part of the Danish authorities, apart from the fact that Prince Axel, who had to go to Berlin on other business, took the opportunity, despite Zahle's misgivings, to call on Göring (he was not able to obtain any useful information from him).¹¹ Two of the senior officials of the Danish Legation in Berlin decided, however, on their own responsibility to draw public attention to the impending danger. Two well-known and trusted Danish correspondents, Jakob Kronika and Heige Knudsen, were summoned to the Legation and were requested to send 'disquieting despatches' to their respective newspapers.¹² Alarming articles appeared, in consequence, in *Nationaltidende* of 5, 7, and 8 April and in *Berlingske Tidende* of 6 and 8 April. The former paper splashed the gist of its correspondent's report in banner headlines across its front page. But these warnings were too late to have any practical effect.

Early on Monday morning, 8 April, Mohr was advised by von Renthe-Fink of British mine-laying in Norwegian waters. The news was duly communicated to the Cabinet on that same morning, as was the fact that German warships had been sighted off the Danish coast on their way north and German troops had been reported to be on their way from Rendsburg to the Danish frontier. A further warning from the office of *Nationaltidende* that Jakob Kronika had described German 'action' as likely to take place 'within two hours' was not mentioned.¹³ A request by the General Staff that troops should be moved closer to the frontier was ignored,¹⁴ but Royal assent was obtained for placing all forces on a war footing (*højeste Alarmberedskab*).¹⁵

In the afternoon von Renthe-Fink made what he described as a 'personal', non-official move. He called on Munch and requested that, in view of the seriousness of the situation caused by the British mine-laying, Denmark should 'show understanding' if she should be 'affected' by the consequences of British action. Munch refused to commit his Government, on the ground that he could conceive of no reason why Danish neutrality should be infringed but that any infringement would certainly

⁹ *Ibid.* col. 601.

¹⁰ *Bilag til Betænkning II*, pp. 5-6.

¹¹ *Bilag til Betænkning I*, pp. 21-23, 30; *Bilag til Betænkning I*, n. 101; *Bilag til Betænkning II: Referatet*, coll. 107-8.

¹² *Betænkning I*, p. 30.

¹³ *Bilag til Betænkning II: Referatet*, col. 9.

¹⁴ *Betænkning II*, p. 30; *Bilag til Betænkning II*, pp. 17-18.

¹⁵ *Bilag til Betænkning I: Referatet*, col. 635.

¹⁶ *Ibid.* p. 12.

Stiftelsen norsk-Okkupasjonshistorie, 2014. The effects of the war at sea, in spite of the promises of the belligerents. The number of members supported them, not because, but in spite, of the weakness of their defence policy.¹

As far as the supply situation was concerned, the measures taken were more effective. A Crisis Committee (*Kriseutvalg*) had been appointed by Royal decree in March 1938 to safeguard civil supplies, and a sum of Kr. 15 million had been voted by the Storting for the purpose. This Committee remained in being until the autumn of 1939, when it was replaced by a newly formed Supply Department. On 30 June 1939 goods to the value of Kr. 10 million had been bought, and purchases continued, thanks to the liberal interpretation given to the original grant by the Storting. Existing food supplies were calculated to be sufficient for from three to nine months, and artificial manure supplies for from one to two and a half years. Petrol supplies were estimated to be sufficient for two months' consumption, but they were requisitioned for defence in September 1939, and rationing was introduced at once.

King Haakon formally proclaimed Norway's neutrality on 1 September 1939² and Norway was a party to the declarations of Scandinavian neutrality on 1 and 3 September.³ Consultations between the Scandinavian states on questions arising out of their neutrality continued to be held from time to time. Germany assured Norway immediately that her neutrality would be respected, provided that she maintained a strictly neutral policy, and Great Britain gave a similar promise on 22 September,⁴ 'so long as Germany respects Norway's neutrality'. The Norwegian 'neutrality watch' was called up on 1 September. It was strengthened in Northern Norway on 19 October, largely on account of the Russo-Finnish war.

Certain changes were made in the Cabinet immediately. The two main changes were that the Prime Minister was relieved of departmental duties and that a Supply Department under Trygve Lie was set up. In December the Defence Minister, Monsen, retired owing to ill health and was succeeded by Colonel Birger Ljungberg. The appointment of a soldier to this post was due to a desire to remove questions of defence from the arena of party politics in view of the gravity of the international situation. Ljungberg's appointment proved a mistake, however, as he was unequal to his task, while his appointment lulled the Government into an unjustified sense of security. Early in January 1940 a suggestion to form a Coalition Government was mooted, but it was rejected because the Prime Minister was strongly opposed to it. Thus the Labour Government remained in office until the invasion.

¹ *Innstilling*, pp. 46, 76 seqq.

² *Documents (R.I.I.A.): Norway and the War*, p. 27.

³ See above, pp. 102-3.

⁴ *Innstilling, Bilag*, vol. i, p. 184.

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On 19 September 1939 Churchill made his first attempt to deprive Germany of Swedish ore supplies by submitting to his colleagues in Whitehall a proposal to mine the Norwegian Leads and thus force the ore ships into non-territorial waters. He was well aware of the objections to this course and of the possibility of German retaliation against Norway, but he felt that the needs of war made such action necessary for Great Britain. On that occasion his proposal was not adopted,⁵ but he renewed it on 27 November, and on 16 December circulated a memorandum on the subject, which the Cabinet considered on the 22nd.⁶ During the same period the Allied press published reports of German sinkings of certain Allied ships off the Norwegian coast;⁷ but it transpired later on that there had been only one case in which the sinking had actually been the work of a German U-boat operating inside Norwegian territorial waters. On 6 January 1940 the Norwegian Government were officially advised that 'the British Government were taking appropriate measures to prevent the use of Norwegian territorial waters by German ships and trade',⁸ and that, for this purpose, it would be necessary for British naval forces at times 'to enter and operate in Norwegian waters'.⁹ At Koht's request King Haakon interceded with King George about this, and the resolution was cancelled. The British Government, however, did not cease to feel concern over German shipments of ore from Sweden through Norwegian territorial waters, and an attempt, on Koht's part, to persuade Sweden to divert some of them from the Norwegian port of Narvik, on the North Sea, to the

¹ *D. Ger. F.P.*, viii, no. 71; see also no. 165.

² Koht, *Norway Neutral and Invaded*, pp. 27-29.

³ Roskill, *The War at Sea, 1939-1945*, i, 156; Churchill, i, 420-4; U.S. edition, i, 531-6.

⁴ *Ibid.*, pp. 430-3, 457-8, and 544-8, 579-80 respectively; Derry, *The Campaign in Norway*, pp. 11-12.

⁵ See *D. Ger. F.P.*, viii, no. 565 of 24 January 1940, for a report by Brüner, the German Minister in Oslo, of a conversation on this subject with Koht (cf. *ibid.*, no. 571).

⁶ *Innstilling*, p. 58.

⁷ Koht, *op. cit.*, p. 32; cf. Roskill, *op. cit.*, i, 158; Derry, *op. cit.*, p. 12.

⁸ *Ibid.*

lead to Danish counter-measures. The question of a call-up of extra troops might even arise. The German Minister warned Munch that this would be most unfortunate and might well be misinterpreted by Berlin. A meeting between von Renthe-Fink and Stauning was arranged for the following day.¹ At a routine meeting of foreign envoys a little later, the French Minister officially reported the mine-laying, but the British Minister had no instructions to make a statement. Munch requested that an expression of the Danish Government's deep concern at this infringement of Norway's neutrality should be conveyed to the French and British Governments. 'Allied action', he said, 'had greatly endangered both Norway's and Sweden's position, while Denmark herself now seemed less immediately threatened.' All the Ministers apparently shared Munch's view that Denmark was not in immediate danger.

Towards evening on 8 April von Renthe-Fink pressed Munch for a reply to the 'question' that he had put to him that morning. Neither Munch nor Mohr was under the impression that a question had been asked. It transpired, however, that the German Minister expected an official Danish response to his suggestion that Denmark might possibly become involved in the consequences of British mine-laying; and he also wished to be reassured that the Danish Government would not call up further troops. Munch thereupon drafted a statement to this effect which was telephoned to von Renthe-Fink. It assured the Minister that the Danish Government, in case any difficulties should arise, would 'strive to eliminate them in the same friendly spirit in which complicated questions between Denmark and Germany have hitherto been solved'.²

Late that evening Mohr found a further report from Zahle awaiting him at the Ministry, suggesting that the German fleet, which had sailed from Swinemünde, might be heading for Narvik, and warning the Danish Government that there was no reason for optimism. Whether German action against Norway was of advantage to Germany or not would be a matter which the Germans themselves would decide, regardless of what the Danish Government thought. The two officials considered the despatch to be of no special importance and took no action,³ although the despatch contained a postscript stating that the Swedish Minister in Berlin had gathered that German plans visualized 'complete or part occupation of Denmark and Norway'.

At 4 a.m. on 9 April von Renthe-Fink asked for an appointment with the Danish Foreign Minister at his home within twenty minutes. Munch informed the Prime Minister, and Stauning advised the leaders of the defence forces. Von Renthe-Fink presented a note from the German

¹ Bilag til *Betænkning I*, pp. 11 seq.

² *Bilag til Betænkning II: Referater*, col. 326; *Prot. til Betænkning I* v. 14.

³ *Betænkning I*, op. 28-30.

Government and announced that German troops were crossing the frontier and landing at several points along the coast. He urged that the Danish troops should be forbidden to offer resistance, which could only lead to bloodshed, and he asked for an immediate reply defining the Danish Government's attitude, with the threat that German fighter aircraft would shortly arrive over Copenhagen ready to attack. The Foreign Minister protested against this violation of Denmark's neutrality and asked for time to advise the King and the Prime Minister. This was conceded, but the German Minister stressed the extreme urgency of the matter.

Meanwhile the War Department and the Admiralty had been notified that the invasion had started and that landings had been made in Copenhagen itself. Just after 5 a.m. Stauning, Munch, and the Defence Minister, with the Chiefs of Staff, called on the King. It was agreed that effective resistance was impossible, although General Prior (Chief of Staff, Army) urged that it should be continued. The remainder of those present argued, however, that this would make no difference to the result. The Danish Government would still be obliged to arrive at a peaceful arrangement with the German Government, but, in this event, under less favourable conditions. The meeting ended at 6 a.m. with the grant of Royal assent to the decision to discontinue resistance. Von Renthe-Fink was informed accordingly, and the defence forces were instructed to cease firing. The armed forces at the frontier had resisted bravely and had lost a number of men.

A meeting of Ministers held after this conference decided to summon the Rigsdag in the afternoon and to invite the Opposition to join the Government. This invitation was accepted.

(ii) Norway: Political Antecedents to the German Invasion

By Agnes H. Hicks

In 1939 Norway was, apart from Sweden, the only European country which had enjoyed unbroken peace since 1814, i.e. for more than four generations. The outbreak of war in 1939, therefore, found Norway ill-prepared for defending herself. All through the period between the two world wars her Government had followed a policy aiming at keeping down to a minimum the expenditure in money and men for the country's defence, because a genuine moral value was attached to Norway's pacific tradition. The Government and the people fancied that the world was gradually becoming more peaceful, and that war as a means of settling international disputes was gradually becoming outmoded. A peaceful settlement of national disagreements was, they imagined, fairly well

ensured by pacts, and in the League of Nations an international organization had been created which was a further guarantee that there would be peaceful solutions of international difficulties. Thus, in Norwegian eyes, the danger of war was greatly diminished, if not entirely eliminated.¹ Nevertheless, a policy of providing for more effective national defence was not without supporters in Norway. Two private organizations—'Norges Forsvarsforening' (Norwegian Defence Association) and 'Foreningen for Norges Sjøforsvar' (Association for Norwegian Naval Defence) did a great deal to spread knowledge about defence and to stimulate public interest in it; but their members were in a minority. It may be said that all political parties bore a share in the responsibility for the weakening in Norwegian defence which resulted from the legislation of 1927 and 1933, and that the regulations under the latter were carried out in spite of bitter and emphatic protests by the military authorities. In apportioning the responsibility, however, it must be borne in mind that, from 1927 onwards, Labour was the strongest single party and that its influence could not be ignored by any Government in power.

Such were the circumstances in which the Labour Party took office in March 1935. Johan Nygaardsvold, the Prime Minister, favoured pacifism, and Professor Halvdan Koht, the Foreign Minister, as well as Fredrik Monsen, the Minister for Defence,² were out-and-out pacifists. A fear expressed by Koht's opponents, that—as a scholar—his foreign policy might be unrealistic proved unfounded. Koht was a realist,³ but it was noticeable, for instance during the Italo-Ethiopian conflict, that he was extremely reluctant to commit Norway in any way, although he did nothing which might have been interpreted as a breach of her obligations under the League Covenant. It was in keeping with this policy that Norway was the first, and, as it turned out, the only one, of the Scandinavian states to ratify the naval treaty with Great Britain in December 1933, which was visualized as a preparation for a general agreement limiting naval armaments.⁴

As to Norway's relations with her Scandinavian neighbours, Koht's policy was governed by extreme caution and by a refusal to discuss military matters with them. He argued that military collaboration would lead to the strengthening of Norway's means of defence, and, for Koht, this was tantamount to rearmament, to which he was rigorously opposed.⁵ It seems strange, therefore, that when, shortly before the war, Hitler asked whether Norway felt herself threatened and offered her a non-aggression

¹ Norway, Storting: *Innstilling fra Undersøkelserkommissionen av 1945* (Oslo, H. Aschehoug (W. Nygaard), 1945), p. 14. [This will be referred to hereafter as *Innstilling*.]

² C. J. Hambro: *Historisk Supplement* (Oslo, Aschehoug Forlag, 1947), chapter V.

³ Trygve Lie: *Leve eller dø; Norge i krig* (Oslo, Tiden Norsk Forlag, 1955), pp. 6-7.

⁴ Halvdan Koht: *Norway Neutral* (London, Hutchings, 1941), pp. 1-2.

⁵ *Innstilling*, pp. 21-22.

pact, the answer to both questions was 'no'. Koht's view, shared by the Storting, was that such a pact was unnecessary in peace time and valueless in time of war, and that, moreover, it might create the impression that Norway was on friendlier terms with Germany than other countries were. This would have been intolerable to the Norwegian people, who, though anxious to remain out of war, were, nevertheless, at heart on the side of the Allies. It was in keeping with this desire to remain neutral that the Norwegian Government rebuffed certain unofficial British and French suggestions, made to Norway early in 1939, for the formation of a 'Peace Front'. C. J. Hambro, the President of the Storting, argued that such a guarantee was not desirable, because 'a neutrality guaranteed from one quarter ceases to be neutral if the case arises'.¹

Thus, down to the summer of 1939, the Norwegian Government, supported by the majority of the people, had been observing a correct attitude towards all foreign Powers. Norway had extricated herself from the commitment, under the Covenant of the League of Nations, to take part in imposing sanctions,² and she stood outside all European power combinations; but she had arrangements for collaborating with her Scandinavian neighbours in fields other than the military one. Her Labour Government was mainly pacifist, but there were signs that the party was becoming divided against itself, as some members realized that developments in Germany might threaten Norway's democratic institutions.³ Unfortunately the war overtook Norway before this feeling could crystallize into effective action. The Norwegians had pursued an anti-defence policy too long to be able to change their attitude quickly. Moreover, there was still some sympathy for Germany among the bourgeois parties and some appreciation of German ideas,⁴ and these views were being expressed in a few Right-wing newspapers.⁵ Nor could the neglect of years be made good quickly.⁶ Defence was totally inadequate; there was not even any unity of direction. Defence arrangements were under the command of the Defence Department with a non-military chief. It is true that a Defence Council had been set up in 1934, but it had not met since 1937 and did not meet again until 1 September 1939. The state of civil defence was deplorable. Measures had been limited to passive anti-aircraft defence, such as bomb shelters. With the exception of Oslo, Bergen, and four or five of the larger towns, no town had active anti-aircraft defences. The Committee set up by the Storting after the war to investigate the responsibility of the Government of the day for the inadequacy of Norway's state of defence reported that Koht, Nygaardsvold, and the Minister of Defence were all

¹ *Documents (R.I.I.A.): Norway and the War, September 1939-December 1940*, pp. 2-3.

² See Survey for 1927, ii, 489-90; Survey for 1937, i, 348.

³ *Innstilling*, p. 2.

⁴ e.g. *Nationen*, the organ of the Farmers' Party.

⁵ *D.Cer.F.P.* viii, no. 171.

⁶ *Innstilling*, pp. 42-47.

equally to blame. Nor could the whole Government be acquitted on the ground that they had the majority of the Storting behind them. A large number of ministers supported them, not because, but in spite, of the weakness of their defence policy.¹

As far as the supply situation was concerned, the measures taken were more effective. A Crisis Committee (*Kriseutvalg*) had been appointed by Royal decree in March 1938 to safeguard civil supplies, and a sum of Kr. 15 million had been voted by the Storting for the purpose. This Committee remained in being until the autumn of 1939, when it was replaced by a newly formed Supply Department. On 30 June 1939 goods to the value of Kr. 10 million had been bought, and purchases continued, thanks to the liberal interpretation given to the original grant by the Storting. Existing food supplies were calculated to be sufficient for from three to nine months, and artificial manure supplies for from one to two and a half years. Petrol supplies were estimated to be sufficient for two months' consumption, but they were requisitioned for defence in September 1939, and rationing was introduced at once.

King Haakon formally proclaimed Norway's neutrality on 1 September 1939² and Norway was a party to the declarations of Scandinavian neutrality on 1 and 3 September.³ Consultations between the Scandinavian states on questions arising out of their neutrality continued to be held from time to time. Germany assured Norway immediately that her neutrality would be respected, provided that she maintained a strictly neutral policy, and Great Britain gave a similar promise on 22 September, 'so long as Germany respects Norway's neutrality'. The Norwegian 'neutrality watch' was called up on 1 September. It was strengthened in Northern Norway on 19 October, largely on account of the Russo-Finnish war.

Certain changes were made in the Cabinet immediately. The two main changes were that the Prime Minister was relieved of departmental duties and that a Supply Department under Trygve Lie was set up. In December the Defence Minister, Monsen, retired owing to ill health and was succeeded by Colonel Birger Ljungberg. The appointment of a soldier to this post was due to a desire to remove questions of defence from the arena of party politics in view of the gravity of the international situation. Ljungberg's appointment proved a mistake, however, as he was unequal to his task, while his appointment lulled the Government into an unjustified sense of security. Early in January 1940 a suggestion to form a Coalition Government was mooted, but it was rejected because the Prime Minister was strongly opposed to it. Thus the Labour Government remained in office until the invasion.

¹ *Innstilling*, pp. 46, 76 seqq.

² *Document*, (R.I.I.A.) *Norway in the War*, p. 27.

³ See above, pp. 102-3.

⁴ *Innstilling*, *Bilag*, vol. I, p. 133.

King Haakon's position caused her soon to begin to experience the difficulties of the war in spite of the promises of the belligerents. The German sank her merchant ships, while the British restricted Norway's exports. Nevertheless, Norway continued to maintain commercial relations with both belligerents—though this to a decreasing extent, and in the price of incurring both German and Franco-British displeasure. Germany attacked Norway and other neutrals against complying with British demands for facilitating the British blockades of Germany,¹ and she protested against the agreement concluded with Great Britain by the Norwegian National Association of Shipowners, under which half the Norwegian merchant fleet was chartered to the Allies.² The Allies showed increasing irritation at the shipments of North Swedish iron ore to Germany through Norwegian territorial waters.

On 9 September 1939 Churchill made his first attempt to deprive Germany of Swedish ore supplies by submitting to his colleagues in Whitehall a proposal to mine the Norwegian Leads and thus force the ore ships into non-territorial waters. He was well aware of the objections to this course and of the possibility of German retaliation against Norway, but he felt that the needs of war made such action necessary for Great Britain. On this occasion his proposal was not adopted,³ but he renewed it on 27 November, and on 16 December circulated a memorandum on the subject, which the Cabinet considered on the 22nd.⁴ During the same period the Allied press published reports of German sinkings of certain Allied ships off the Norwegian coast;⁵ but it transpired later on that there had been only one case in which the sinking had actually been the work of a German U-boat operating inside Norwegian territorial waters. On 6 January 1940 the Norwegian Government were officially advised that 'the British Government were taking appropriate measures to prevent the use of Norwegian territorial waters by German ships and trade',⁶ and that, for this purpose, it would be necessary for British naval forces at times 'to enter and operate in Norwegian waters'.⁷ At Koht's request King Haakon interceded with King George about this, and the resolution was cancelled. The British Government, however, did not cease to feel concern over German shipments of ore from Sweden through Norwegian territorial waters, and an attempt, on Koht's part, to persuade Sweden to divert some of them from the Norwegian port of Narvik, on the North Sea, to the

¹ *D.G.F.P.* VIII, no. 71; see also no. 165.

² Koht: *Norway Neutral and Invaded*, pp. 27-29.

³ Bodill: *The War at Sea*, 1939-1945, I, 156; Churchill, I, 420-1; U.S. edition, I, 531-6.

⁴ *Ibid.* pp. 430-3, 457-8, and 544-8, 570-80 respectively; Derry: *The Campaign in Norway*, pp. 11-12.

⁵ See *D.G.F.P.* VIII, no. 589 of 21 January 1940, for a report by Bodill, the German Minister for Foreign Affairs, on his consultation on this subject with Koht (cf. *ibid.* no. 511).

⁶ *Ibid.* no. 515.

⁷ See *ibid.* no. 521 (cf. *ibid.* no. 511), op. cit. I, 156; Derry, op. cit. p. 12.

Scandinavian states ought not to remain neutral but ought, for their own sake, to join the West European Powers.¹

While Norway was implicated in the war at sea from the very outbreak of hostilities, her policy of neutrality underwent its first serious trial on the military-political side when Russia attacked Finland.² Popular feeling in Norway was all on Finland's side, but nobody in a responsible political position was prepared to act on this feeling. The Prime Minister, in particular, threw the whole weight of his authority on the side of remaining neutral in the strictest sense of the word and Koht carried out this policy willingly.³ Moreover, Bräuer, the German Minister in Oslo, repeatedly warned the Norwegian Government that any official move to render military assistance to Finland would lead to German reprisals. Consequently the Government disregarded the wishes of a minority in the Storting, headed by J. L. Mowinckel and Hambro and enjoying widespread support among the people, that a policy more in line with popular sentiment should be pursued. In spite of this cautious attitude the Soviet Government protested on 6 January against the anti-Russian press campaign in Norway. The Norwegian Government's reply was firm and dignified. The accusations were rejected as incorrect and the firmness of Norway's resolve to maintain her neutrality was emphasized. Officially the Russian Government found the reply satisfactory,⁴ but unofficially Moscow Radio, on 15 January, described it as unsatisfactory. Thus Norway was never allowed to forget that her ship of state was navigating dangerous waters; but this did not prevent the Norwegians from giving Finland all the help in their power within the rules of neutrality. Koht stated at Geneva on 14 December that although compared with Swedish help to Finland Norway's help looked little, 'nevertheless it is true that never in Norway have we had collections which brought in such great value both in monies and goods as those to help Finland'. Moreover, when at the end of December 1939 the Allies asked, in a note to Norway (and Sweden), for facilities to send war materials to Finland across Scandinavian territory, these facilities were conceded by both countries as not constituting a breach of neutrality.⁵ On the other hand an Allied request on 2 March, that, in the event of a Finnish appeal for Allied military aid, Allied troops should be granted passage through the Scandinavian countries, was refused—by Sweden on 2 March and by Norway

¹ Cf. Chamberlain in the House of Commons, 19 March 1940 (H.C. Deb. 5th ser., vol. 358, col. 1842). When, two months earlier (on 20 January), Churchill had broadcast to the neutrals to come into the war on the Allies' side, Koht, in talking to the German Minister in Oslo, had described the appeal as 'provocative and silly' (*D.Ger.F.P.* viii, no. 565).

² For the threat from the side of the Allies see above, pp. 79-80, 83.

³ *Imstilling*, p. 56.

⁴ *Ibid.* p. 59.

⁵ Koht: *Norway Neutral and Invaded*, p. 36. On 3 January 1940 British returned to Berlin his opinion that Norway would not obstruct the transit to Finland of French and British troops and 'volunteers' not organized in military units (*D.Ger.F.P.* viii, no. 503).

on 2 March. The only occasion on which a slight relaxation of Koht's policy of neutrality was noticeable was when he took part in negotiations on the possibility of a defensive alliance between the Scandinavian states and Finland after the conclusion of the Russo-Finnish Peace Treaty of 12 March 1940;² but, when the Soviet Government made it clear that such a pact would be regarded as a breach of the treaty on Finland's part, the suggestion was dropped.

Norwegian trade negotiations with the belligerents came to a head in 1940 a week after the *Altmark* affair. The German-Norwegian agreement³—which was approved by the British delegates—was signed on 24 February, while the Anglo-Norwegian agreement⁴ was not completed until 11 March, as it required the consent of the British Dominions. On 2 April 1940, in the House of Commons, Chamberlain alluded to the trade question, stressing that 'all the war trade agreements into which we have entered contain stipulations regulating the exports of neutral countries' own domestic produce to Germany'.⁵ It will be seen that he did not expressly mention ore shipments, because these were, in fact, Swedish exports, but Koht took the view that, under the rules of neutrality and in view of assurances given by Norway to Germany on 1 September 1939,⁶ Norway was bound to permit and protect 'peaceable transport' inside her waters. British control over this traffic was tightened up, however, and occasionally British warships penetrated into Norwegian waters.

Meanwhile, Germany and the Allies had been working out simultaneous and parallel military designs upon Norway, after the Allies' previous designs (in connexion with their dream of bringing aid to Finland against the Soviet Union) had been overtaken and put out of court by Finland's capitulation.

On 21 March Reynaud became President of the French Council of Ministers and at once began to press the British Government again to adopt an aggressive policy in Scandinavia.

It was now decided to start by solving the original problem of the passage of the iron ore south from Narvik by the original method, namely, the mining of the Leads so as to drive enemy shipping out of Norwegian territorial waters. . . . This was to be followed by the laying of minefields in Norwegian waters, of which no previous warning would be given to the Norwegian Government. This in turn, it was supposed, might be followed by German counter-action against Norwegian territory; and this, by the acceptance by Norway of an Allied occupation of Narvik and the three southern ports. . . . Expectations about Sweden

¹ *Ibid.* op. cit. pp. 36-37. See also above, pp. 80-81.

² See above, p. 80.

³ See Nils Onnes: *Norge i krigens År for færdigheden til 17 april 1940* (Vol. 1: *Hvaldalen*) Oslo, 1941, G. Tveder for Hvaldalen-Forlaget, 1941, p. 31.

⁴ *Ibid.* p. 32.

⁵ *Ibid.* op. cit. p. 48.

⁶ H.C. Deb. 5th ser., vol. 358, col. 47.

were less clear, but they hoped that circumstances would enable the force landed at Narvik to be regarded as the champion of Sweden against aggression, actual or potential.

On the other side the Germans had been pushing ahead with their plans for the occupation of Norway.² Their operations were originally intended to begin on 20 March; the British plan, which was accepted by the Supreme War Council on 28 March, called for the dispatch of 'justificatory' notes to Norway and Sweden on 1 or 2 April, to be followed by mine-laying on 5 April. The persistence of ice in the Baltic caused the Germans to postpone their date until 9 April; and the British date was also postponed for a few days in consequence of French objections to an associated British plan for sowing mines in the Rhine. British notes to the Norwegian and Swedish Governments were delivered on 5 April, and by that time the press in the two Scandinavian capitals was already commenting adversely on the supposed Allied intentions.³ The mine-laying was due to follow on 8 April. It thus came about that German and Anglo-French naval forces were converging simultaneously on Norway for the execution of their respective plans. The German plan was, however, for a series of decisive blows delivered at a number of different points simultaneously before dawn on 9 April, while the British plan was 'for a succession of conditional landings, which would only take place if evidence of a suitably hostile German reaction to the minelaying were available immediately, and in that event would follow it at an interval ranging from one to four and a half days'.⁴

When Norway entered the crisis of April 1940 only a small part of her defensive power was mobilized. No mines had been laid, coastal fortresses were only partially manned, and no more than a small proportion of the army was under arms. In spite of the disquieting developments before April, Norway's measures for defence retained the character of a 'neutrality watch' to the end. Koht—and his opinion was shared by Mowinckel and Hambro—considered the position to be less dangerous than it had been in 1914–18, and Hambro believed that the Allies' superiority in the air and Germany's lack of petrol would make any effective action on Germany's part impossible.⁵ In consequence the Government was not disposed to yield to its military advisers' pressure to increase Norwegian preparedness, particularly as, according to the Norwegian White Book, some pressure was exercised at the time by Hambro, Mowinckel, and Jens Hundsoid to limit military dispositions.⁶ This allegation has, however,

¹ Derry: *The Campaign in Norway*, pp. 14–15.

² *Ibid.*, pp. 16–21.

³ For the official Norwegian reaction at this date see Lie: *Leve eller dø*, pp. 92–100.

⁴ Derry, *op. cit.* p. 24.

⁵ *Innstilling*, pp. 71, 76, 84.

⁶ *Ibid.* p. 76.

been contradicted by Hambro. The Danish Ambassador—according to a statement by General Laake—was usually left decisions in such matters to the other members of the cabinet or to the Foreign Political Department, while military circles were insufficiently informed on the political and military-political situation. The Admiral in Command, Admiral Diesen, stated after the war that he had thought the landing of enemy troops in Norway highly unlikely and had therefore not proposed full mobilization of coastal fortifications, and had even arranged to send home the majority of the troops attached to them. The post-war Committee of Inquiry set up by the Storting apportioned more blame to the Admiral than to General Laake for lack of initiative, as the territorial waters were obviously more in the danger zone than was the defence zone on land.² Koht's statement at a meeting of the Storting at Hamar³ on 9 April proves conclusively that he was not feeling any misgivings about the defence position.⁴

Investigations after the war into the files of the Ministry of Foreign Affairs led to the finding of various warnings that German military action against Norway was pending. The London members of the '9th April Government' denied all knowledge of these. But it was proved conclusively that, between 5 and 8 April, authoritative reports on the position were received in Oslo from the Norwegian Legation in Berlin, and that Koht, Colonel Ljungberg, and also the General and Admiral in Command all had knowledge of them, but that the other members of the Government were not informed. The first warning of the gravity of the situation came from Arne Scheel, the Norwegian Minister in Berlin, on 29 March.⁵ It was in general terms, and it suggested that danger was threatening from France and Great Britain rather than from Germany. On 3 April, i.e. five days before the laying of mines in Norwegian territorial waters by the British navy was announced to the Norwegian Government by the Allies, the then Norwegian Minister in London, Erik Colban, telegraphed that he had understood distinctly from Philip Noel-Baker, a leading member of the Labour Party, that the British were preparing for direct action against the German iron-ore traffic in Norwegian territorial waters.⁶ On 1 April, and again on 4 April, there were further warnings, this time pointing to Germany as the intending aggressor. These warnings were on the same lines as those which reached Denmark, and were, in fact, based on the same information.⁷ But it was not until 5 April that Norway herself was mentioned as being definitely threatened by Germany. On that day

¹ Hambro: *Hvitebøk Supplement*, p. 33.

² *Innstilling*, pp. 76–80.

³ The Storting followed later by the King and most of the Government, left Oslo for Hamar, and held a session there in the early morning of 9 April (Koht: *Norsk Historie og Innstilling*, p. 77).

⁴ *Innstilling*, p. 75.

⁵ *Ibid.*

⁶ *Innstilling*, p. 75, 76.

⁷ *Innstilling*, pp. 83–85.

warnings were received in Oslo from Copenhagen, Berlin, and Stockholm, those from Copenhagen being based on the information received by the Danish Government at from Zahle, their Minister in Berlin. On 4 April a conference of the Parliamentary Committee for Foreign Affairs, Koht had rejected a suggestion that he should make a *démarché* in Berlin on the subject of these 'rumours'. He pointed out that either the rumours were unfounded and in that case were not danger signals, or, alternatively, were true, in which case he would get no reply.¹ When interrogated after the war he explained that similar rumours had circulated in December 1939 and January 1940,² when nothing had materialized. He was not disposed to take these new rumours more seriously.³ He denied ever having received warnings from Sweden, especially a message alleged to have been telephoned to the General Staff by the Swedish Defence Staff.⁴

On 7 April the Norwegian Minister in Copenhagen, August Esmarch, sent a clear warning of imminent German action against Norway; the German fleet had set out westward, obviously to a relatively far distant point. Koht felt sure that it was heading for the Atlantic. One reason why there was a tendency in Oslo to disregard these warnings was because, at the time, both the Government and the Foreign Affairs Committee were exclusively engaged in considering the possible effects of British mine-laying. Nevertheless when, at 3 p.m. on 8 April, the Norwegian Legation in London telephoned announcing an urgent telegraphic message concerning apparent German fleet movements towards Narvik, Koht at once passed this message on to the Admiralty. It stated that German naval forces had been sighted that morning in the North Sea off the Norwegian coast; that they were proceeding northward; and that it was 'strongly suspected that operations against Narvik' were 'intended, and that they could arrive at Narvik before midnight'.⁵ A few hours later an even graver message arrived. Colonel Ljungberg reported to the Storting in secret session that the Commander at Kristiansand had reported the arrival of about 100 Germans from the S.S. *Rio de Janeiro* (torpedoed outside Lillesand that morning) in field-grey uniforms; they had admitted that horses and guns had been on board and that they had heard rumours that they were on their way to Bergen in order to help the Norwegians 'at the request of the Norwegian Government'. The Defence Minister regarded the incident as just another infringement of neutrality, rather than as a warning of imminent attack.⁶ Nor did he heed repeated representa-

¹ *Innstilling*, pp. 86-87; see also above, pp. 105-7.

² At this moment, as stated earlier (see above, p. 106), the OKW was actually planning the invasion of Norway, and conversations between the Germans and Quisling were taking place (*D.Ger.F.P.* viii, nos. 133, 441, 443, 450, 466, 483, 511, 626; Derry: *The Campaign in Norway*, pp. 17-18).

³ *Innstilling*, p. 48.

⁴ *Ibid.* pp. 37, 92.

⁵ *Ibid.* p. 53.

⁶ *Ibid.* pp. 11, seq. pp. 93-94, 96.

tions by the Chief of the General Staff, Colonel R. Hatledal, on 5, 6, and 7 April, urging him to consider the gravity of the situation and the smallness of the German forces in the south. On 8 April Colonel Hatledal was supported in these representations by General Laake, and both officers attended a Foreign Affairs Committee meeting that day. In the evening Hatledal pressed Ljungberg for a reply to various proposals that had now been submitted to him, and he was told that the reply would be given on the next morning.¹ The matter was actually discussed during that evening and a proposal for full mobilization was drafted. Ljungberg pointed out that mobilization would take three days, and thereupon the Government compromised on a decision to mobilize two battalions in Østfold, which could assemble more quickly. This decision was taken after Nygaardsvold had expressly asked the Defence Minister for his opinion on whether it was justifiable to deviate from Hatledal's proposal, and had been assured that two battalions would be adequate.

At midnight on 8 April the Admiralty Staff reported that foreign vessels were outside Oslofjord and were trying to force the fortifications. A meeting of the Foreign Affairs Committee was called and was held, with all members present, at 1.30 a.m. on 9 April. Reports were now received that German attacks were extending to Bergen, and the Government then decided to mobilize the army. At 5 a.m. the German ultimatum, submitted by Bräuer, was rejected and general mobilization was decided upon. In the King's absence it was not decided on officially or in writing, but it was assumed that all military authorities would be advised by Colonel Ljungberg. General Laake afterwards testified that it was not until 2.30 a.m. that he succeeded in speaking to Ljungberg, over the telephone, in order to persuade him to revive his own mobilization proposals, and not until between 4 and 6 a.m. that the order for general mobilization was sent out. The Defence Minister persisted to the last in his endeavours to keep the order secret, and secrecy would have greatly delayed its coming into effect.² The post-war Committee of Inquiry's finding is that an order for general mobilization was never sent out, since general mobilization certainly never started, and there is no reason to suppose that an order for it, if received, would not have been obeyed, seeing how urgently the General Staff was calling for this decision.³ The records themselves do not clear up this crucial point. The Investigation Committee gives great credit to Colonel Hatledal for his initiative in face of serious difficulties. On his own responsibility he tried to widen the scope of the mobilization order. By a regrettable oversight the Norwegian radio was not destroyed before the Germans entered Oslo, although instructions to destroy it had been asked for by the officials. As a result, Quisling (the leader of the Norwegian Nazi Party) and the Germans were able to take it over and to use

¹ *Ibid.* pp. 97, 99.

² *Ibid.* pp. 29, 300.

³ *Ibid.* pp. 102, 111.

it on the afternoon of 9 April to announce the setting up of the Quisling Government, to cancel the mobilization orders, and to call home Norwegian ships abroad.¹

(iii) The Netherlands: Political Antecedents to the German Offensive

By Humphrey Higgins

(a) THE DUTCH NATIONAL POLICY OF NEUTRALITY

The position of the Netherlands in relation to other countries on 3 September 1939 was a sadly simple one: she had no political entanglements whatever, either in Europe or in the East or West Indies. In fact, with 100 years of peace behind her, and relying on her 'axiomatic neutrality',² she had not only not sought alliances and guarantees; she had declined them.³ She was a member of the tottering League of Nations, it is true;⁴ but in 1936 she, together with Belgium, Luxembourg, Finland, and the Scandinavian countries, had declared that she would no longer consider herself to be bound by the League's decisions when it was a question of enforcing collective security.⁵ Inflexible neutrality and 'a reasonable scale of national armament so as not to offer any avoidable temptation to anyone to invade the country',⁶ constituted her policy.

When Great Britain and France declared war on Germany, and the Netherlands found herself 'between the pass and fell incensed points of mighty opposites', she had not only acquired credit for the help that she had offered in trying to prevent the war,⁷ she had also received assurances from the German and British Governments, the latter downright, the former ambiguous,⁸ that her neutrality would be respected; and she herself issued a Declaration of Neutrality on 1 September.⁹ Mobilization of the

¹ Accounts of the German conquest of Norway and the Norwegian and British failure to prevent it will be found in Derry: *The Campaign in Norway*, chapters iii-xv, and in Roskill: *The War at Sea, 1939-1945*, pp. 156-203.

² For the Netherlands' 'Neutrality without Guarantees' see *Survey for 1939-46: The World in March 1939*, pp. 157-60. Cf. De Geer's broadcast of 13 November 1939 (see below, p. 131) and *The Times*, 16 September 1939.

³ e.g. when Hitler in 1937 offered to guarantee her neutrality (see *Survey for 1937*, i. 353).

⁴ *Ibid.* p. 158, and below, pp. 134, 135-6.

⁵ See E. N. van Kleffens: *The Role of the Netherlands* (London, Hodder & Stoughton, 1940) [referred to hereafter as Van Kleffens], pp. 15-16. See also Bartholomew Landheer, ed.: *The Netherlands* (Berkeley and Los Angeles, University of California Press, 1943) [referred to hereafter as Landheer], pp. 144-7.

⁶ Van Kleffens, p. 16.

⁷ See Netherlands, Foreign Ministry: *Overzicht van de voornaamste tot November 1939 behandelde aangelegenheden* (The Hague, Algemeene Landsdrukkerij, 1939) [referred to hereafter as 'Orange Book', November 1939], pp. 5-6.

⁸ On 26 August and 1 September 1939, respectively ('Orange Book', November 1939, p. 6, and Van Kleffens, pp. 38-41).

⁹ *Ibid.* pp. 6-9 and 51-53 respectively.

land forces had begun on 28 August, the navy was alert, and by the end of August large areas of the country had been flooded. On 3 September a State of War was declared.¹ The policy of neutrality was about to be tested: it remained to be seen whether, by refraining from giving too favourable treatment to one side—and especially from making insufficiently harsh protests when her rights were infringed—she could deprive the other side of any excuse for reprisals, which might be carried to the length of invasion. For the same reason the Netherlands declined to hold staff talks with her potential allies about measures to be taken, if she or they were attacked.² It was generally expected in the Netherlands that an attack, if it did come, would come from Germany.³ But care was taken in the Netherlands that the fear of an attack by Germany should never be expressed publicly,⁴ and, indeed, that no distinction should be made between the two sides in the war;⁵ and it was hoped that, after Holland's 100 years of good fortune, 'the miracle could happen again'.⁶

The Dutch people, too, were, on the whole, firm supporters of the policy of neutrality, and their virtual unanimity on this issue was impressive, considering that they prided themselves on liberty of opinion and

¹ Van Kleffens, pp. 42-43, and see *ibid.* pp. 43-45 for a description of the Dutch water defences.

² See Netherlands, States-General, Second Chamber: *Enquête van de Regeringsbeleid 1940-1945* (The Hague, Staatsdrukkerij, 1949 in progress) [referred to hereafter as *Enquêtecommissie*], I B, 23.

³ See below, p. 125, note 5; and see a denial by the Dutch Foreign Ministry in the *Daily Telegraph* (26 June 1939) that Dutch naval officers in the East Indies might be authorized to confer with British and French officers meeting at Singapore. The policy of neutrality was maintained until 10 May 1940; although the *Standaard* of 9 April 1940, the day of the invasion of Denmark and Norway (in an article reported to be by Dr. Colijn, leader of the Anti-Revolutionary Party and head of four coalition Ministries between May 1939 and August 1939), said that, since any neutral state might be attacked at any moment, the old conception of neutrality was no longer applicable. Holland should make arrangements at once for the receipt of help forthwith, in case she should be attacked. If she felt threatened by both sides, she should make arrangements with both sides (quoted in *Telegraaf*, 10 April 1940). This suggestion found little support in the press. In fact, it had been agreed at Anglo-French staff talks which had begun on 27 March 1939 that the Allies would be unable to assist Holland to repel a sudden attack (see Ellis: *The War in France and Flanders, 1939-1940*, p. 5).

⁴ It is true that the German Government, on their side, if they took other countries' undertakings to respect neutrality as lightly as they took their own, had some reason to fear that the Allies might contemplate occupying the Low Countries in order to attack the Ruhr, which was the 'Achilles' heel' of Germany. See below, p. 125, note 6.

⁵ This carefulness was useless, since the behaviour of the Low Countries between September 1939 and May 1940 did not, in fact, influence Hitler's plans at all.

⁶ The display of all foreign flags was forbidden in Netherlands territory in Europe, except in ships and diplomatic establishments ('Orange Book', November 1939, pp. 19-20).

⁷ Landheer, p. 147. See also L. de Jong: *Holland fights the Nazis* (London, Lindsay Drummond, 1941), pp. 5-6. The Dutch hoped that Germany, as in the First World War, would wish to keep Holland open as a channel for imports from abroad (a German lung, open to the outside world, as von Moltke said), and feared that a Belgian-Dutch alliance, while it would not be strong enough to oppose Germany successfully, might provoke her to invade Holland in her attack on Belgium. Belgium, the Dutch thought, would be invaded in any case, since she lay directly on the railway highway between France and Germany.

it on the afternoon of 9 April to announce the setting up of the Quisling Government, to cancel the mobilization orders, and to call home Norwegian ships abroad.

(iii) The Netherlands: Political Antecedents to the German Offensive

By Humphrey Higgins

(a) THE DUTCH NATIONAL POLICY OF NEUTRALITY

The position of the Netherlands in relation to other countries on 3 September 1939 was a sadly simple one: she had no political entanglements whatever, either in Europe or in the East or West Indies. In fact, with 100 years of peace behind her, and relying on her 'axiomatic neutrality',¹ she had not only not sought alliances and guarantees; she had declined them.² She was a member of the tottering League of Nations, it is true;³ but in 1936 she, together with Belgium, Luxembourg, Finland, and the Scandinavian countries, had declared that she would no longer consider herself to be bound by the League's decisions when it was a question of enforcing collective security.⁴ Inflexible neutrality and 'a reasonable scale of national armament so as not to offer any avoidable temptation to anyone to invade the country',⁵ constituted her policy.

When Great Britain and France declared war on Germany, and the Netherlands found herself 'between the pass and fell incensed points of mighty opposites', she had not only acquired credit for the help that she had offered in trying to prevent the war,⁶ she had also received assurances from the German and British Governments, the latter downright, the former ambiguous,⁷ that her neutrality would be respected; and she herself issued a Declaration of Neutrality on 1 September.⁸ Mobilization of the

¹ Accounts of the German conquest of Norway and the Norwegian and British failure to prevent it will be found in Derry: *The Campaign in Norway*, chapters III-IV, and in Roskill: *The War at Sea, 1939-1945*, pp. 156-203.

² For the Netherlands' 'Neutrality without Guarantees' see Survey for 1939-46: *The World in March 1939*, pp. 157-60. Cf. De Geer's broadcast of 13 November 1939 (see below, p. 131) and *The Times*, 16 September 1939.

³ e.g. when Hitler in 1937 offered to guarantee her neutrality (see Survey for 1937, I, 353).

⁴ *Ibid.* p. 158, and below, pp. 134, 135-6.

⁵ See E. N. van Kleffens: *The Rape of the Netherlands* (London, Hodder & Stoughton, 1940, [referred to hereafter as Van Kleffens]), pp. 15-16. See also Bartholomew Landheer, ed.: *The Netherlands* (Berkeley and Los Angeles, University of California Press, 1943) [referred to hereafter as Landheer], pp. 141-7.

⁶ Van Kleffens, p. 16.

⁷ See Netherlands, Foreign Ministry: *Overzicht van de voornamste tot November 1939 behandelde aangelegenheden* (The Hague, Algemeene Landsdrukkerij, 1939) [referred to hereafter as 'Orange Book', November 1939], pp. 5-6.

⁸ On 26 August and 1 September 1939, respectively ('Orange Book', November 1939, p. 6, and Van Kleffens, pp. 38-41).

⁹ *Ibid.* pp. 6-9 and 51-53 respectively.

land forces had begun on 28 August, the only advantage, and by the end of August large areas of the country had been occupied. On 3 September a State of War was declared. The policy of neutrality was about to be tested: it remained to be seen whether, by making a show of being too favourable to one side—and even from within insufficiently harsh protests when her rights were infringed—she could deprive the other side of any excuse for reprisals, which might be carried to the length of invasion. For the same reason the Netherlands declined to hold staff talks with her potential allies about measures to be taken, if she or they were attacked.⁹ It was generally expected in the Netherlands that an attack, if it did come, would come from Germany.¹⁰ But care was taken in the Netherlands that the fear of an attack by Germany should never be expressed publicly,¹¹ and, indeed, that no distinction should be made between the two sides in the war;¹² and it was hoped that, after Holland's 100 years of good fortune, 'the miracle could happen again'.¹³

The Dutch people, too, were, on the whole, firm supporters of the policy of neutrality, and their virtual unanimity on this issue was impressive, considering that they prided themselves on a unity of opinion and

⁹ Van Kleffens, pp. 42-43, and see *ibid.* pp. 43-45 for a description of the Dutch water defences.

¹⁰ See Netherlands, States-General, Second Chamber: *Enquête naar de Regeringsbeleid 1940-1945* (The Hague, Staatsdrukkerij, 1949 in progress) [referred to hereafter as *Enquêtecommissie*], I B, 23.

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¹² It is true that the German Government, on their side, if they took other countries' undertakings to respect neutrality as lightly as they took their own, had some reason to fear that the Allies might contemplate occupying the Low Countries in order to attack the Ruhr, which was the 'Achilles' heel' of Germany. See below, p. 125, note 6.

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¹⁵ Landheer, p. 147. See also L. de Jong: *Holland fights the Nazis* (London, Lindsay Drummond, 1941), pp. 5-6. The Dutch hoped that Germany, as in the First World War, would wish to keep Holland open as a channel for imports from abroad (a German lung open to the outside world, as von Moltke said), and feared that a Belgian-Dutch alliance, which it would not be strong enough to oppose Germany successfully, might prompt her to invade Holland in her attack on Belgium. The Dutch thought, would be invaded in any case, that she lay directly on the railway highway between France and Germany.

recht gegenüber den in den Mächten hier ... nicht freiwillig anerkennen.

Seit in dem Rechtsgutachten, das ich Anfang 1945 verfaßt habe und das dann in der Zeitschrift Die Versicherungszeitung in einer Sondernummer, Nr. 3, vom Juli 1946 und später noch anderweitig veröffentlicht worden ist, habe ich versucht, einen Kampf gegen die beiden im Ausland überwiegend verbreiteten Anschauungen einzuleiten, erstens, daß noch immer Krieg bestehe, zweitens, daß trotzdem die Haager Landkriegsordnung beziehungsweise die in inhaltlich entsprechenden lois et coutumes de la guerre nicht zu gelten haben. Ich habe in beiden Punkten das Gegenteil behauptet: es bestehe nicht mehr Krieg, trotzdem habe das Haager Besatzungsrecht, sei es in der Form der Haager Landkriegsordnung, sei es in jener der lois et coutumes de la guerre, zu gelten. Diesen Kampf habe ich dann in anderen Publikationen, insbesondere in der vorliegenden Einführung seit ihrer ersten Auflage fortgesetzt.

Wir haben es hier nur mit dem zweiten Satz, jenem betreffend die Geltung der Haager Landkriegsordnung, zu tun. Dennoch kann der erste Satz nicht übergangen werden. Denn es könnte ja vielleicht folgendermaßen argumentiert werden: was die Alliierten Mächte seit der tatsächlichen Pazifizierung Deutschlands noch „Krieg“ nennen, sei gar nicht Krieg im Sinne der Haager Landkriegsordnung, daher gelte diese schon darum im gegenwärtigen Deutschland nicht und es bedürfe gar keiner Prüfung besonderer Ausnahmegründe, welche die Mächte von der Geltung der Haager Regeln befreien.

Die Haager Landkriegsordnung definiert nicht, was sie unter Krieg versteht, sondern setzt einen allgemeinen Kriegsbegriff des Völkerrechts voraus. Noch weniger kann aus dem ihr inhaltlich enthaltenen Gebots- und Verbotsrecht unmittelbar eine scharfe und klare Unterscheidung zwischen Krieg und Frieden werden. Es liegt also an der

... auf der Klärung angründet, wie er auch vielen ... zugrunde liegt und wie er im allgemeinen in jedem System des Völkerrechtes in einem besonderen ...

... müssen wir kurz die Tatsachen ... Das heißt nicht, daß ... die Rechtsnormen ... die Tatsachen unter seine subsumieren ... Haager Besatzungsrecht als allgemeinen ... jene ... die Mächte ...

... der ...

Sie haben vielfach die deutschen ... gezwungen, denselben Standpunkt einzunehmen. Während sie nach Friedensrecht entweder dem Deutschen Reich oder den Ländern oder den beiden Bundesrepubliken als Rechtsnachfolgern des Reichs hätten das aktive und passive Gesandtschaftsrecht, das Recht, vor internationalen Gerichten Staaten zu verklagen und von ihnen verklagt zu werden usw., kurz internationale Rechtspersönlichkeit hätten zuerkennen müssen, haben sie dies nicht getan. Während nach Friedensrecht dritte Staaten das Recht auf normalen Verkehr mit Deutschland ausüben könnten, haben die Besetzungsmächte den Verkehr Deutschlands mit dem Ausland lange Zeit hindurch so beschränkt, wie dies nur ein Kriegführender zum Schutze seiner Kriegführung tun darf, und noch jetzt gibt es viele solche Beschränkungen. Vor allem aber haben die Mächte unter Berufung auf den Kriegszustand zum Teil Jahre lang Gefangene zurückbehalten, die, falls der Krieg als beendet zu gelten hätte, nach der Genfer Konvention von 1929, welche nunmehr durch eine neue von 1949 ersetzt worden ist, längst hätten in die Heimat entlassen werden müssen.

So weit liegt demnach ein erklärter Wille der Alliierten Regierungen vor, den Krieg auch nach dem Unmöglichwerden aller Kampfhandlungen bis auf Weiteres fortzusetzen.

Andersorts haben die Mächte die oberste Regierungsgewalt in Deutschland übernommen. Bereits die Proklamation Nr. 1 der Militärregierung Deutschland, Kontrollgebiet (richtiger wäre zu übersetzen: Herrschaftsgebiet) des militärischen Befehlshabers an das deutsche Volk, erklärt im Art. II: „Supreme legislative, judicial and executive authority and powers within the occupied territory are vested in me as Supreme Commander of the Allied Forces and as Military Governor“ in der amtlichen Übersetzung: „Die höchste gesetzgebende, rechtsprechende und vollziehende Machtbefugnis und Gewalt in dem besetzten Gebiet ist in meiner Person als Oberster Befehlshaber der Alliierten Streitkräfte und als Militär-Gouverneur vereinigt.“

Mit der Deklaration vom 5. Juni 1945 haben die Regierungen der ... eine authority with respect to Germany ... powers possessed by the German Government, the ... state, municipal or local government or ... bedeutet wörtlich: „oberste Autorität bezüglich ... Gewalten, welche die deutsche Regierung ...“

„bewirkt nicht die Annexion Deutschlands“. Das Potsdamer Abkommen vom August 1945 hat vorgetragen, daß diese oberste Gewalt von den obersten Befehlshabern der Alliierten Streitkräfte in Deutschland ausgeübt werden solle. Die Proklamation Nr. 1 des Kontrollrates vom 30. August 1945 weist nochmals darauf hin, daß mit der Deklaration vom 5. Juni 1945 die oberste Gewalt, „supreme authority“, in Deutschland von den vier Regierungen übernommen worden sei und überträgt insbesondere die oberste Gewalt in Angelegenheiten, welche Deutschland als Ganzes betreffen, dem Kontrollrat. Auf diesen Grundlagen haben die vier Militärregierungen Gesetze und Verordnungen in großer Zahl erlassen, mit denen in allen Teilen Deutschlands und auf allen Rechtsgebieten Befehle gegeben worden sind, welche auf unbegrenzte Dauer tief in das alltägliche Leben aller hier lebenden oder sich hier aufhaltenden Menschen eingreifen.

Die Mächte haben also eine so weitgehende Befehlsgewalt ergriffen, daß sie sich selbst beeilt haben, sogleich hinzuzufügen, sie bewirke keine Annexion. Nun bedeutet Annexion im Völkerrecht und im internationalen Sprachgebrauch den Erwerb der Gebietshoheit. Die Mächte haben demnach erklärt, sie wollen Deutschland nicht annektieren, das heißt, es soll weiterhin für sie Ausland sein, aber sie beanspruchen alle Herrschaftsgewalt, welche der Träger der Gebietshoheit gehabt hätte und ohne diesen Akt der Mächtergreifung auch weiterhin haben würde. Auf Grund dieser Tatsachen hat sich ein Zusammenleben zwischen dem gesamten Besatzungspersonal der vier Mächte und der deutschen Bevölkerung entwickelt, welches, mag es auch für das deutsche Volk noch so bedrückend sein und von ihm im Allgemeinen noch so sehr als Unrecht empfunden werden, doch jedenfalls vollkommen friedlich ist. Dieses Zusammenleben kennt weder militärische Kämpfe noch die Formen einer Waffenruhe oder eines Waffenstillstandes. Besatzungsbehörden und deutsche Behörden arbeiten tagtäglich miteinander für zum Teil gemeinsame Ziele. Güteraustausch, Reise- und Nachrichtenverkehr zwischen Deutschland und den Alliierten Ländern sind nicht so unterbunden wie zwischen Ländern, die miteinander im Kriege stehen, sondern vollziehen sich in friedlichen, zum Teil sogar in den üblichen friedlichen Formen usw.

Trotz dieser Entwicklung haben die Alliierten Mächte bisher den Standpunkt festgehalten, daß sie sich noch immer im Krieg mit Deutschland befinden. „Deutschland“, „Germany“ usw. kann hierbei nicht eine geographische Landschaft bedeuten, sondern das völkerrechtliche Rechtssubjekt des Deutschen Reiches, das fortzistiert als ein solches Rechtssubjekt sie dadurch implizit anerkennen. Seit einer Erklärung des britischen Auswärtigen Ministers vom

1946 in dem selber oft zitierten Rechtsfall Rex versus Bottrill, ex parte Kuechenmeister, welche aussprach: „His Majesty is still in a State of war with Germany“, „Seine Majestät ist noch immer im Kriegszustande mit Deutschland“ ist eine ganze Reihe offizieller Äußerungen zu verzeichnen, in denen die Alliierten Regierungen unzweideutig zum Ausdruck gebracht haben, daß sie sich bis jetzt als mit Deutschland im Kriege befindlich wissen wollen. Auch die Rechtsprechung und Literatur ihrer Länder ist ihnen überwiegend darin gefolgt. Die deutschen offiziellen Stellen haben sich im allgemeinen der Auffassung der Alliierten Mächte kritiklos gebeugt. Auch in der deutschen Literatur gibt es Stimmen, welche die Fortdauer des Kriegszustandes bejahen. Doch wird vielfach — in den Alliierten Ländern wie in Deutschland — anerkannt, daß bei der Auslegung privater Rechtsgeschäfte, z. B. bei der Vermietung einer Wohnung „bis zum Kriegsende“, ein besonderer, von dem allgemeinen Begriff des Krieges abweichender dem Willen der Parteien entsprechender Kriegsbegriff zur Geltung gelangen könne.

Die Behandlung, welche das Problem im Großen und Ganzen in der Praxis wie in der Theorie erfährt, leidet an einer wesentlichen Unklarheit. Sie vermengt Staatsrecht und Völkerrecht. Nach staatlichem britischem, französischem, amerikanischem und russischem Recht kann eine Norm gelten, welche allen Normunterworfenen befiehlt, sich gegen Deutschland so zu verhalten, als ob völkerrechtlich noch Krieg bestünde. Ein sehr anschauliches Beispiel bietet ein im Anhang näher zitiertes Urteil des United States District Court, District of Columbia vom 6. Februar 1947, Stimson versus New York Life Insurance Co., in welchem gesagt wird: „The United States continues to be engaged in war until the legislative or executive authority, or both, recognize and declare that the United States is no longer so engaged“, „Die Vereinigten Staaten sind weiterhin im Krieg, bis der Gesetzgeber oder die vollziehende Gewalt oder beide anerkennen und erklären, daß die Vereinigten Staaten sich nicht länger in diesem Zustand befinden“. Deutlicher kann man es wohl kaum aussprechen, daß der Begriff Krieg in diesem Zusammenhang kein Begriff des Völkerrechtes sondern ein solcher des staatlichen Rechtes ist. Wenn der britische oder amerikanische Gesetzgeber, oder der König von England mit seinem kontrasignierenden Minister, oder der Präsident der Vereinigten Staaten amtlich aussprechen, ihr Land sei noch im Krieg mit Deutschland, so kann dies auch britischen, beziehungsweise amerikanischen Staatsrecht einen Befehl an die vorgegebenen Organe bedeuten, gegen Deutschland so zu verfahren, wie es auch nach allgemeinem Völkerrecht der Kriegszustand noch bedingte. Aber weder das Parlament von London noch das von Washington noch der König von England mit seinem

renden Ministerpräsident der Vereinigten Staaten sich allein Gesetzgeber des Völkerrechts, und wo können daher den Kriegsbegriff des allgemeinen Völkerrechts nicht ändern. Auch die Kontrollratsgerichte und sonstigen Militärgerichte für das besetzte Deutschland können dies nicht. Sie können den Deutschen faktisch Befehlen, den Kriegszustand als noch fortbestehend zu behandeln. Aber dadurch ändert sich der Kriegsbegriff des allgemeinen Völkerrechts nicht im Geringsten. Sie handhaben also in Deutschland faktisch Kriegsrecht. Ob aber völkerrechtlich wirklich Krieg besteht, kann und muß ausschließlich vom Standpunkt des einen, für und gegen alle Staaten und Völker gleichen allgemeinen Völkerrechts beurteilt werden.

Was ist denn nun der Krieg im Sinne dieses allgemeinen Völkerrechts?

Sein Wesen ist, daß die Tötung, Verletzung und Beraubung von Menschen, die Beschränkung ihrer Freiheit, die Zerstörung von Sachgütern und andere Handlungen, die sonst nach dem Recht aller zivilisierten Völker Verbrechen darstellen würden, erlaubt sind, wenn sie von zuständigen Personen, den sogenannten Kombattanten, (Art. 3 der Haager Landkriegsordnung) im Namen und Auftrag einer kriegführenden Regierung gegen einen feindlichen Staat, dessen Angehörige, dessen Gebiet und dessen Sachgüter vorgenommen werden. Wir können alle diese Handlungen unter dem Namen der erlaubten Kampfhandlungen zusammenfassen, wobei hier nicht näher untersucht werden kann, welche Kampfhandlungen völkerrechtlich zulässig und welche es nicht sind. Solange es sicher ist, daß nach dem Willen der beiderseitigen kriegführenden Regierungen Kampfhandlungen erlaubt sind, solange besteht ohne Zweifel Krieg im Sinne des Völkerrechts. Die Zulässigkeit von Kampfhandlungen kann durch einen von beiden Kriegführenden abgeschlossenen Vertrag unterbrochen werden. Solche Verträge nennt man je nach ihrer zeitlichen und räumlichen Geltungsdauer Waffenruhe oder Waffenstillstand (Art. 36 ff). Bei längerer Dauer wird immer nur von Waffenstillstand gesprochen. Nach Ablauf der festgesetzten Dauer oder bei Verletzung des Waffenruhe- oder Waffenstillstandsvertrags von einer Seite lebt das Recht, Kampfhandlungen vorzunehmen, ohne daß sie wie im Frieden als Verbrechen gelten, ipso jure, das heißt von selbst, wieder auf, so daß es keiner neuen Kriegserklärung bedarf. Auch kann an Stelle einer festen Dauer die Zulässigkeit einer Kündigung vereinbart werden. Dann bleibt das Recht, Kampfhandlungen vorzunehmen, mit der Erfüllung jeder Kündigungsbedingung wieder auf.

Zulässigkeit von Kampfhandlungen, Waffenruhe und Waffenstillstand sind die Möglichkeiten, welche das völkerrechtliche Kriegsrecht bietet, um sicher zu versichern, daß zwei Völker einander

gegenüber nicht anzuwachen können, welche die Waffen ruhen oder einstellen lassen können und welche die Kampfhandlungen jederzeit aufnehmen können und dürfen, wenn der andere Teil den Waffenruhe- oder Waffenstillstandsvertrag bricht. Eher Annahme als Voraussetzung der Zulässigkeit von Kampfhandlungen, der Waffenruhe und des Waffenstillstandes steht unter den im Art. 2 der Haager Landkriegsordnung genannten Bedingungen die sogenannte levée en masse, das Volksaufgebot, gleich. Die Zulässigkeit der Kampfhandlungen ist der Hauptzweck des Krieges; einen Krieg, in welchem sie überhaupt nicht zulässig sind, gibt es nach Völkerrecht nicht. Waffenruhe und Waffenstillstand haben eine ganz bestimmte militärische Bedeutung, auf die hier nicht eingegangen werden kann. Sieben während ihrer Dauer Streitkräfte auf gegnerischem Gebiet, so sind sie an die Haager Landkriegsordnung beziehungsweise an die lois et coutumes de la guerre gebunden. Daher haben sie keineswegs das Recht, hier die oberste Regierungsgewalt in dem oben geschilderten Umfang an sich zu nehmen und auszuüben. Über die Grenzen hinaus, welche die Haager Regeln der Besatzungsmacht ziehen, haben sie alles im Lande unberührt zu lassen.

Aus dem Vorstehenden folgt: wenn weder nach dem Einverständnis beider Streitkräfte Kampfhandlungen zulässig sind noch Waffenruhe oder Waffenstillstand besteht, kann kein Krieg im Sinne des allgemeinen Völkerrechts vorliegen. Wendet nun einer der Streitkräfte trotzdem Kriegsrecht tatsächlich an, obwohl der andere Teil sich nicht wehren will oder nicht wehren kann, so muß der Eine des allgemeinen Völkerrechts etwas anderes vorliegen als Krieg.

Nun hat Stödter, Deutschlands Rechtslage, 1916, SS. 115, 116, gegen meine dargestellten Schlußfolgerungen einwendet: „Unrichtig ist die Annahme, daß der Kriegszustand Feindseligkeiten voraussetze, sofern nicht Waffenstillstand oder Waffenruhe herrschen. Kriegszustand ist auch ohne Waffenaufeinanderbringung denkbar. Beide Weltkriege haben Beispiele genug dafür geliefert, daß Staaten miteinander im Kriege liegen können, ohne daß zwischen ihren Streitkräften jemals zu einem Waffengang gekommen ist. Schließlich kann der Krieg, der eine völkerrechtliche Beziehung zwischen zwei oder mehreren Staaten darstellt, durch einseitige Kündigung eines Kriegführenden nicht beendet werden. Auch die erste Hälfte des ersten Weltkrieges ein Beispiel geliefert. Als Rußland am 13. September 1914 in Brest-Litowsk einseitig feststellte, es gehe aus dem Krieg aus, antwortete Deutschland mit der Beendigung des Waffenstillstandes und der Wiederaufnahme der Feindseligkeiten. Die bloße Kündigung der Feindseligkeiten beendet den Krieg nur dann, wenn sie einseitig ist und den Willen beider Parteien zum Ausbruch des Feindenszustandes wiederherzustellen. Die Einseitigkeit der Kündigung ist

im Jahre 1945 aber nur eine einseitige gewesen. Deutschlands hat die Waffen niedergelegt, nicht haben es die Alliierten."

Mit diesen Argumenten kann man jedoch die These, daß nach allgemeinem Völkerrecht noch Krieg bestehe, nicht stützen. Die Tatsächlichkeit von Kampfhandlungen ist nicht dasselbe wie ihre rechtliche Zulässigkeit. Wenn der eine nicht kämpfen darf und sich fügt, kann auch der andere nicht gegen ihn kämpfen, ohne Mord zu begehen. Auch das Nichtniederlegen der Waffen kann nicht entscheidend sein; vielleicht legen die Mächte noch Jahrhunderte lang ihre Waffen nicht nieder. Gewiß ist ein Kriegszustand „auch ohne Waffenausinandersetzung“ denkbar, aber ohne tatsächliche Waffenausinandersetzung. Zum Beispiel Bulgarien hat am 27. November 1919 in Neuilly zur Seine mit den Alliierten und Assoziierten Mächten und am 10. Februar 1947 in Paris mit zwölf gegnerischen Staaten formelle Friedensverträge geschlossen, welche keinen Zweifel darüber aufkommen lassen können, daß vorher „Krieg“ im Sinne des Völkerrechtes zwischen den Vertragsparteien bestanden hatte. Sicherlich aber haben bulgarische Truppen nicht mit Truppen aller dieser vielen Staaten Klingen gekreuzt. Dies war also gegenüber gewissen Staaten ein Kriegszustand ohne jegliche tatsächliche Kampfhandlungen. Allein ebenso zweifellos ist Folgendes: wenn bulgarische Soldaten während der Dauer des Kriegszustandes und ohne das Dazwischentreten einer Waffenruhe oder eines Waffenstillstandes Soldaten eines solchen gegnerischen Staates angegriffen hätten, so wären sie nicht Mörder gewesen und im Falle der Gefangennahme wären sie als Kriegsgefangene zu behandeln gewesen. Analoges gilt von russischen Soldaten, welche etwa deutsche Soldaten angegriffen haben, nachdem das Deutsche Reich am 18. Februar 1918 die Kampfhandlungen gegen Rußland wieder aufgenommen hatte. In allen derartigen Fällen ist es für das Bestehen des Kriegszustandes im völkerrechtlichen Sinn gleichgültig, ob tatsächlich Kampfhandlungen stattfinden, aber es ist wesentlich, daß sie nach dem Willen beider Streitparteien zulässig sind.

Jedoch gerade das ist es, was die Alliierten Mächte bekanntlich in Deutschland nicht wollen. Sie wollen die Beiderseitigkeit, die zum Wesen des Kriegsrechtes gehört, nicht, und darum kann Stödters Argumentation nicht angenommen werden. Wenn heute aus irgendeinem lokalen Anlaß, sagen wir etwa infolge eines unglücklichen Mißverständnisses, wie ein solches auch bei einem Waffenstillstand vorkommen kann, Kampfhandlungen zwischen Personen einer Besatzungsmacht und bewaffneten deutschen Polizeiorganen im Dienste stattfänden oder wenn irgendwo in Deutschland eine levée en masse versucht würde, so würde zweifellos keine der Besatzungsmächte zugeben, daß ein Anspruch auf Behandlung dieser deutschen Polizei-

organe oder der sonstigen Kämpfer auf deutscher Seite als Kriegsgefangener bestände, nachdem sie festgenommen worden wären. Damit hätten die Mächte implizite bereits vorausgesetzt, daß kein Krieg besteht. Denn wenn zwei kämpfen, kann nicht für den einen Krieg sein und für den anderen nicht.

Die Voraussetzungen der Möglichkeit eines Kriegszustandes im völkerrechtlichen Sinn haben die Alliierten Mächte selbst durch bewußten Willensakt beseitigt. Sie haben die völlige Entwaffnung Deutschlands angeordnet und durchgeführt und erkennen nicht an, daß es überhaupt noch auch nur einen einzigen Kombattanten im Sinne des Art. 3 unter den deutschen Staatsangehörigen gibt. Daher ist das ganze deutsche Volk, auch jene deutschen Polizisten des oben gebrauchten Beispiels nicht ausgenommen, ein Volk von Zivilisten und gegenüber jeglichen militärischen Kampfhandlungen nach dem Willen der Mächte wehrlos. Es ist auch keine levée en masse, kein Volksaufgebot, im Sinne Art. 2 der Haager Landkriegsordnung möglich. Denn nach dessen klarem Wortlaut wäre eine unorganisierte Erhebung nach erfolgter Besetzung nicht zur Kriegführung im völkerrechtlichen Sinn befugt. Das Völkerrecht kennt nur einen Krieg gegen Kombattanten allein oder gegen Kombattanten und Zivilbevölkerung oder gegen eine tatsächlich vorhandene, den Bedingungen des Art. 2 entsprechende levée en masse, jedoch keinen Krieg gegen ein wehrloses Volk, das nur aus unbewaffneter Zivilisten besteht.

Die Alliierten Mächte wollen also in Wahrheit gar nicht dasjenige, was das allgemeine Völkerrecht als Krieg bezeichnet. Sie wollen das Kriegsrecht handhaben, soweit es ihnen günstig ist, das heißt bei eigenen Kriegshandlungen gegen Deutschland. Aber sie wollen das Kriegsrecht nicht gelten lassen für deutsche Kriegshandlungen gegen ihre eigenen Truppen.

Ein solches einseitiges Verhältnis kennt jedoch das völkerrechtliche Kriegsrecht nicht. Nach Völkerrecht ist der Krieg, wie in jedem Lehrbuch des Völkerrechtes zu lesen ist, ein zweiseitiges Verbotnis zwischen zwei „kriegführenden Parteien“. Wo von Rechten und Pflichten der Kriegführenden die Rede ist, sind es Rechte und Pflichten der beiderseitigen Kriegführenden. Es gibt keinen Krieg, in dem nur einer führen darf und der andere nicht. In meiner zweiten Rektoratsrede Der Dauernde Friede vom 6. November 1947, S. 11 mit S. 23, 2. Aufl. 1950, S. 20 mit S. 37 habe ich ausgeführt: Krieg ist die von zwei miteinander kriegführenden Regierungen anbefohlene Bewertung gemeiner Verbrechen, wie zum Beispiel der vorsätzlichen Tötung von Menschen oder Zerstörung von Sachen, in erlaubte und befohlene Handlungen. Im Kapitulationsvertrag ...

die deutsche Wehrmacht, wie wir noch sehen werden, sich verpflichten, alle Kampfhandlungen einzustellen und alle Kampfmittel bis zur vollkommenen Entwaffnung auszuliefern. Bis zur Vollendung dieser Entwaffnung bedeutete der Kapitulationsvertrag demgemäß zugleich einen Waffenstillstandsvertrag. Aber der Kapitulationsvertrag hat nicht enthalten und konnte nach den zwingenden Normen des völkerrechtlichen Kriegsbegriffes nicht enthalten eine Umwertung von Handlungen, die im Frieden als gemeine Verbrechen gelten, nur für eine Partei und für die andere nicht. Wenn noch immer Krieg bestünde, wäre das Deutsche Reich noch immer „kriegführende Partei“, und die Umwertung müßte zugunsten deutscher öffentlicher Organe ebenso erfolgen wie zugunsten der alliierten öffentlichen Organe.

Ob und unter welchen Voraussetzungen nach dem staatlichen britischen, französischen, amerikanischen und russischen Recht der Staat sich selbst als kriegführende Partei gegenüber einem Gegner betrachten darf, dem er das Kriegführen längst verboten und unmöglich gemacht hat und dem er die völkerrechtlichen Rechte einer kriegführenden Partei nicht zuerkennt, kann hier nicht geprüft werden. Aber nach allgemeinem Völkerrecht, von dem allein hier die Rede ist, kann es nach dem Gesagten keinen Krieg mit nur einer kriegführenden Partei geben. Es ist daher wohl ein Mißverständnis, wenn bei Dö l l e - Z w e i g e r t, Gesetz Nr. 52 über die Sperre und Beaufsichtigung von Vermögen, 1947, S. 7, meine Behauptung, Deutschland sei heute keine „kriegführende“ Macht mehr, als „abwegig“ bezeichnet wird. Vom Standpunkt des Staatsrechts der vier Mächte mag sie „abwegig“ erscheinen, und die deutsche Praxis ist ja gezwungen, sich blindlings dem zu unterwerfen, was die Mächte befehlen; aber ich habe weder fremdes Staatsrecht betreiben wollen noch habe ich es unternommen, deutsche Augenblicksinteressen und unausweichliche Opportunitätserwägungen zu vertreten, sondern ausdrücklich nur allgemeines Völkerrecht behandelt, so wie es für und gegen alle Staaten, Rassen und Völker in gleicher Weise zu gelten hat.

Gegen das Gesagte kann auch nicht eingewendet werden, der Sieger könne doch den Krieg fortsetzen, solange es ihm beliebt. Er kann zwar bewaffnet bleiben, so lange er will, aber er kann nicht rechtsverbindlich befehlen, daß über die Zeit der Erlaubtheit beiderseitiger Kampfhandlungen hinaus und über die Zeit eines Waffenstillstandes zwischen zwei Armeen hinaus, auf unbestimmte Dauer, vielleicht auch Jahrzehnte oder wer weiß, wie lange, unter dem Namen „Krieg“ die moralische und völkerrechtliche Umwertung jener im Frieden als Verbrechen geltenden Handlungen nur zugunsten der einen und nicht auch der anderen „Kriegs“-partei vollzogen werde. Denn weder dem Rechtsgefühl der zivilisierten

Menschheit, der conscience publique, noch dem allgemeinen Völkerrecht mit seinem Begriff des Krieges als eines Verhältnisses der Gegenseitigkeit kann er etwas Befehlen. Man braucht sich nur vorzustellen, daß ein siegreiches Deutschland, sei es ein hitlerisches, wilhelminisches oder demokratisches, eine derartige einseitige Verlängerung des Kriegsbegriffes dekretiert hätte, um klar zu sehen, daß die conscience publique und dieselbe völkerrechtliche Literatur, die sich jetzt mit dem vermeintlichen Kriegsbegriff abfindet, diese Verlängerung doch auf die Dauer nicht als rechtmäßig anerkennen könnte. Ja, es genügt, anzunehmen, der jetzige Zustand würde unverändert beispielsweise fünfzig Jahre von der Besetzung an dauern. Wer würde dann von einem sechsundfünfzigjährigen Krieg sprechen? Niemand. Was aber der Sprachgebrauch der Völker so entschieden ablehnen würde, das würde wahrscheinlich auch — Kenntnis der wahren entscheidenden Tatsachen und Fehlen einseitiger Propaganda vorausgesetzt — die conscience publique ablehnen. Krieg ist doch für das unbeeinflusste Rechtsgefühl der zivilisierten Menschen sicher nicht ein Zustand, bei dem der eine kämpfen darf und der andere bei Verbrechenstrafe nicht. Die conscience publique aber ist, auch für den juristischen Positivismus, die letzte Interpretationsquelle. Einmal wird sich also die objektive internationale Rechtswissenschaft doch genötigt sehen, anzuerkennen, daß seit der völligen Entwaffnung Deutschlands kein Krieg im Sinne des allgemeinen Völkerrechtes bestanden hat.

Die Bezeichnung des jetzigen völkerrechtlichen Zustandes als Krieg ist nach dem Gesagten rechtsirrig, wenn auch nach britischem, französischem, amerikanischem und russischem staatlichem Recht der Kriegszustand weiter bestehen mag. Was die Mächte gewollt und getan haben, ist etwas anderes als dasjenige, was das allgemeine Völkerrecht Krieg nennt.

Was ist nun dieses andere?

Wir haben gesehen: erstens, die Mächte handhaben tatsächlich Kriegsrecht in Deutschland, zweitens, Krieg im Sinne des allgemeinen Völkerrechtes liegt jedoch seit der Beendigung der Entwaffnung Deutschlands nicht vor. Wenn ein Staat im Frieden Kriegsrecht gegen einen anderen Staat zur Geltung bringt, nennt man dies eine Intervention. Unter Intervention versteht man militärische Zwangsmaßnahmen eines Staates gegen einen zweiten Staat, die nicht bis zum Kriege gehen und auch von der Gegenseite nicht mit Krieg erwidert werden. So werden beispielsweise bei der sogenannten Friedensblockade im wesentlichen die Regeln über die Voraussetzungen und Wirkungen der kriegerischen Blockade angewendet, obwohl voraussetzungsmaßen beide Teile einen Krieg nicht führen wollen und auch tatsächlich nicht führen. Intervention ist also, wie

ich dies in der Übersetzung zu meinen oben erwähnten Vorkriegs- Gutachten in der Wiedergabe in der Versammlung in Wien, Wien, November und Dezember 1946, ausgedrückt habe, „Interventionsrecht ohne Krieg“.

Von der Intervention ist bereits oben SS. 49, 50 die Rede gewesen. Wir haben dort gesehen, daß das Wort Intervention mehrdeutig ist. Ebenso wie dort müssen wir auch hier den Begriff des sogenannten Interventionskrieges beiseitelassen. Denn Interventionskrieg und Intervention ohne Krieg sind zweierlei. Der sogenannte Interventionskrieg ist im Sinne des allgemeinen Völkerrechtes ein Krieg, wie jeder andere; ob sein Motiv Intervention ist oder nicht, ist für seinen Rechtscharakter als Krieg gleichgültig. Hier haben wir es nur mit Intervention als einer nicht kriegserischen, nämlich nicht bis zur beiderseitigen Zulässigkeit von Kampfhandlungen gehenden Anwendung von Gewalt seitens eines stärkeren Staates gegen einen schwächeren Staat zu tun. Das Deutsche Reich hat sich in der Kapitulation dem gemeinsamen Angriff der vier Mächte auf sein Gebiet gefügt und muß sich ihnen weiter fügen, ohne einen neuen Krieg gegen sie beginnen zu können. Es ist demnach genau in der Lage eines Staates, auf dessen Gebiet mit seiner Zustimmung eine Intervention ohne Krieg stattfindet.

Soweit aus dem Kapitulationsvertrag folgt, daß das Deutsche Reich demjenigen, was seit der Besetzung in Deutschland geschieht, zugestimmt hat, braucht eben wegen dieser Zustimmung hier die vielerörterte und schwierige Frage nicht geprüft zu werden, wann, und ob überhaupt, nach allgemeinem Völkerrecht eine Intervention ohne die Zustimmung des Staates, gegen den sie sich richtet, zulässig ist. Der Tatsache der militärischen Besetzung und daher der Anwendung des kriegserischen Besetzungsrechtes auf Deutschland hat jedenfalls das Deutsche Reich in dem Kapitulationsvertrag zugestimmt. Es gilt also in Deutschland das Recht der nicht-kriegserischen Intervention und nach diesem Recht kriegserisches Besetzungsrecht, das heißt, dasselbe Besetzungsrecht, als ob Krieg wäre. Von dem Inhalt dieses Besetzungsrechtes ist unten auszusprechen.

Dieses Interventionsrecht ist aber Friedensrecht. Der von Stödtter Deutschlands Rechtslage, SS. 112, 113 gegen mich gerichteten Argumentation ich hätte einen Zwischenzustand zwischen Krieg und Frieden behauptet, diesen gebe es aber nach Völkerrecht nicht, muß ebenso wie seiner oben erwähnten Kritik entgegengehalten werden, daß Tatsächlichkeit und Zulässigkeit Verschiedenes sind. Tatsächlich befindet sich Deutschland allerdings in einem Zustand, der dem Publikum als ein Mittelding zwischen Krieg und Frieden erscheinen mag. Aber ich habe doch nirgends gesagt, daß es

nicht ein bloßes Völkerrecht einen Zustand zwischen Krieg und Frieden gebe. Ich habe auch nicht aus dem Faktum eine Norm abgeleitet, wie Stödtter meint, sondern das Faktum, das man oft ein besonderes „Recht“ für Deutschland nennt, am Maßstab der Normen des allgemeinen Völkerrechtes kritisiert.

Das Völkerrecht kennt nur Krieg oder Frieden. Es kann gar nicht anders sein. Denn entweder ist die vorsätzliche Tötung eines Menschen, der Raub, die Brandstiftung usw. unbedingt ein gemeines Verbrechen, oder diese Handlungen sind, wenn bestimmte Bedingungen des allgemeinen Kriegsrechtes eingehalten werden, erlaubte, ja gebotene Handlungen. Da gibt es weder nach unserem Rechtsgefühl, der conscience publique der zivilisierten Menschheit, noch nach positivem allgemeinem Völkerrecht ein Kompromiß, ein Mittelding zwischen Krieg und Frieden. Gerade aus meiner Lehre, daß der Krieg die beiderseits anbefohlene Umwertung gemeiner Verbrechen in erlaubte Handlungen bedeute, wird verständlich, daß das allgemeine Völkerrecht nur die Alternative: Krieg oder Frieden kennen kann.

Nur dieses Ergebnis, daß Friede besteht, schützt die Alliierten Mächte vor dem Vorwurf der Verletzung des Kriegsächtungspaktes, des sogenannten Kelloggpaktes, vom 27. August 1928 durch Kriegsverlängerung. Im Art. 1 dieses Vertrages erklären die vertragschließenden Regierungen im Namen ihrer Völker, daß sie den Krieg als Mittel für die Lösung internationaler Streitigkeiten verurteilen und auf ihn als Werkzeug nationaler Politik in ihren gegenseitigen Beziehungen verzichten. Auch die Besetzung seit 1945 ist ein Mittel für die Lösung internationaler Streitfälle, zum Beispiel in Bezug auf Meinungsverschiedenheiten zwischen den Besetzungsmächten und Deutschland darüber, was an Reparationen zu leisten ist und ob und wie weit darüber hinaus Demontagen zulässig sind. Nach dem juristischen argumentum a majori ad minus, vom Größeren auf das Kleinere, ist im Art. 1 die Norm enthalten: wenn schon der Neubeginn eines Krieges zu einer Zeit, solange der Gegner noch Kampfkraft hat und sich wehren kann, verurteilt wird und in Zukunft völkerrechtlich nicht mehr zulässig sein soll, so muß dies umso mehr gelten, wenn die Kampfkraft des Gegners vollkommen beseitigt ist und die Kriegführung sich nur mehr gegen eine wehrlose Bevölkerung von Zivilpersonen richten könnte. Eine solche Vertragsverletzung können die Mächte nicht gewollt haben, zumal sie der Regierung Hitler und damit dem Deutschen Reich die Nichteinhaltung des Vertrags so eindringlich vorgehalten haben. Dagegen verurteilt der Kriegsächtungspakt nicht die mit Zustimmung des Gegners, daher völkerrechtsgemäß vorgenommene Intervention. Was die Mächte mit dem Namen Krieg bezeichnen, ist demnach kriegserische Besetzung kraft Interventionsrechtes.

Mit diesen Erwägungen ist es nur scheinbar ein Widerspruch, wenn man in der Öffentlichkeit so oft von einem künftigen Friedensschluß spricht. Was man hierbei unter „Frieden“ meint, ist nicht Aufhören eines völkerrechtlichen Kriegszustandes, sondern Aufhören der kriegerischen Besetzung nach Interventionsrecht, sei es, daß Deutschland überhaupt geräumt würde, sei es, daß die Besetzung nach Interventionsrecht einer im „Friedens“vertrag geregelten Besetzung zu weichen hätte. Aber weder die Mächte noch ein etwa Deutschland abgenötigtes Anerkenntnis könnten an der geschichtlichen Tatsache etwas ändern, daß von der Vollendung der gänzlichen Entwaffnung Deutschlands bis jetzt beziehungsweise bis zu jenem sogenannten „Friedens“schluß nach allgemeinem Völkerrecht bereits Friede mit Interventionsbesetzung geherrscht hat.

Unser Ergebnis ist: im Sinne und Geiste des positiven allgemeinen Völkerrechtes besteht seit der Vollendung der gänzlichen Entwaffnung des Deutschen Reiches Friede zwischen diesem und den Alliierten Mächten. Aber die Mächte handhaben auf dem Gebiet des Reiches tatsächlich Kriegsbesetzungsrecht. Sie tun dies in Übereinstimmung mit dem allgemeinen Völkerrecht so weit, als sie die Schranken des allgemeinen Völkerrechtes über die kriegerische Besetzung einhalten und soweit aus dem Kapitulationsvertrag folgt, daß das Deutsche Reich der Anwendung des kriegerischen Besetzungsrechtes nach seiner völligen Entwaffnung zugestimmt hat.

Die hierbei in Frage kommenden Normen, nämlich erstens jene über den Unterschied und die Grenze zwischen Krieg und Intervention, zweitens jene über die allgemeinrechtlichen Schranken des Besetzungsrechtes und drittens jene über die Tragweite eines Kapitulationsvertrages. In Bezug auf diese Schranken, müssen notwendigerweise grundsätzlich solche zwingenden Rechtes sein, das heißt eines Rechtes, das nicht durch entgegengesetzte Verträge zwischen einzelnen Staaten beliebig durchbrochen werden kann. Denn wäre dem nicht so, wären sie bloß sogenanntes dispositives, das heißt der Disposition der Parteien anheimgegebenes Recht, so könnten die Sieger dieses allgemeine Völkerrecht über den Häuten werfen und dem Sieger das Anerkenntnis des Besiegten erzwingen, ja, auch im Frieden könnte jeder stärkere Staat von einem schwächeren ein derartiges Anerkenntnis durch Drohung mit einem Krieg oder einer Intervention erwirken. Jene Normen wären also zwecklos, wenn sie nicht zwingend wären. So darf der Jurist nach dem oben im zweiten Abschnitt ausgeführten ein Gesetz nicht auslegen. Jene Normen wollen ja nicht Remerungen schützen, noch Staaten als Abstraktum, sondern Menschen, Soldaten, Verwundete, Gefangene, Bewohner besetzter Gebiete, Eigentümer bedrohter Sachen usw.

Man kann nicht gegen die zwingende Kraft jener Normen nicht einwenden, zwingende Normen über Krieg und Intervention seien überflüssig, denn künftig würden die Vereinten Nationen jede Gefährdung des Friedens und jede völkerrechtswidrige Intervention verhindern. Jede geltende Norm gilt weiter bis zu ihrer Aufhebung. Übrigens hängt die Wirksamkeit der Vereinten Nationen von der Einhelligkeit und der Aktivität der im Sicherheitsrat vertretenen Großmächte ab. Man erinnere sich daran, daß der Genfer Völkerbund weder den italienisch-abessinischen, noch den japanisch-chinesischen, noch den russisch-finnischen Krieg noch den zweiten Weltkrieg hat verhindern können. Wenn überhaupt Völkerrechtsnormen die Menschheit bis zu einem gewissen Grade vor den Folgen der großen Machtkämpfe schützen können, und das ist doch ihr Zweck, so können es nur zwingende Normen sein, und die Völkerrechtswissenschaft erfüllt ihre Aufgabe nur dann zureichend, wenn sie gerade die zwingende verpflichtende Kraft der erwähnten Schutznormen betont.

Auch die Normen der Haager Landkriegsordnung und der ihr inhaltlich gleichen lois et coutumes de la guerre müssen grundsätzlich zwingendes Recht sein, wenngleich zu ihrer näheren Durchführung Abmachungen dispositiven Rechtes ohne Zweifel zulässig und oft notwendig sind. Zum Beispiel könnte eine Regierung Normen, welche Grausamkeiten gegen Verwundete, gegen Gefangene oder gegen die Bevölkerung eines besetzten Gebietes verbieten, gewiß nicht dadurch auf sich selbst unanwendbar machen, daß sie sich mit gleichen Grausamkeiten gegen ihre eigenen Staatsangehörigen einverstanden erklärt. Wenn zwei Regierungen übereinkommen würden, daß sie ihre beiderseitigen Gefangenen nach Belieben quälen oder verhungern lassen dürfen, so würden sie die Haager Regeln nicht durch dispositives Recht durchbrechen, sondern sie würden offenbar beide zwingendes allgemeines Völkerrecht verletzen, und jeder dritte Staat wäre daher völkerrechtlich berechtigt, zum Schutze der Mißhandelten zu intervenieren. Es wäre dies ein Fall der allgemein als zulässig anerkannten sogenannten humanitären Intervention. Dies bedarf wohl keiner näheren Ausführung. Wenn aber die Norm, welche Qualereien verbietet, zwingenden Rechtes ist, so müssen die Regeln des Haager Rechtes, welche das Individuum vor anderen Eingriffen schützen, zum Beispiel vor jahrelanger Gefangenhaltung nach der völligen Auflösung der Heimatarmee des Gefangenen und dem Unmöglichwerden jeglicher kriegerischer Kampfhandlung, gleichfalls zwingenden Rechtes sein.

Die Normen des Haager Rechtes zum Schutze des Individuums — und um solche handelt es sich ja bei der Besetzung fremden Gebietes — sind demnach zwingendes Recht. Sie müssen überall gelten und zwingenden Rechtes sein, wo immer auf der Erdkugel Kriegs-

Die Haager Landkriegsordnung Dr. Rudolf Laun. Unkenntnis Hamburg.

recht gelassen wird, aber...
Denn wenn das Landkriegsrecht...
im Kriege der Fälle der Haager Regeln...
dem Schlussverfahren vom Geringsten auf das Mehr...
gekehrt (oben SS. 34, 52, 73) umso mehr zu...
...

Nun mehr sind wir in der Lage, die Frage zu prüfen, ob es
Rechtsgründe, welche die Alliierten Mächte, trotzdem sie im Festland
Landkriegsrecht handhaben, von der Bindung an das Haager Be-
setzungsrecht befreien?

1. Zu der Zeit, als ich 1946 zuerst das oben erwähnte Verhän-
dungsgutachten und dann die erste Auflage der vorliegenden Ein-
führung schrieb, meinten selbst in Deutschland sehr viele, die Haager
Landkriegsordnung gelte nur für jene Staaten, die ihr beigetreten
waren und sie nicht wieder gekündigt hatten, sie sei aber wegen
der Allbeteiligungsklausel des Art. 2 der Grundkonvention auf einen Krieg wie den zweiten Weltkrieg, in dem aber
alle kriegführenden Staaten Teilnehmer der Haager Konvention
waren, daher auch auf die Besetzung am Ende dieses Krieges, nicht
anwendbar.

Diese Einwendung ist jedoch bereits mit demjenigen abgewehrt,
was oben SS. 21 ff. und SS. 85 ff. über die lois et coutumes générales de
la guerre und das Nürnberger Urteil von 1. Oktober 1946 und soeben
über die zwingende Natur der Haager Schutzregeln gesagt worden
ist. Danach ist jeder Staat jedenfalls an das der Haager Landkriegs-
ordnung inhaltlich gleichstehende Gewohnheitsrecht gebunden, dieses
gilt auch heute und ist zwingendes Recht auf dem ganzen Erdball.
Bereits die erste Tagung der deutschen Völkerrechtslehrer, welche
vom 16. bis 18. April 1947 in Hamburg getagt hat, hat diesen Rechts-
standpunkt einstimmig im Punkt 3 ihrer unten im Anhang abgedruck-
ten Resolutionen vertreten. Das Haager Besetzungsrecht gilt
demnach als Teil des positiven allgemeinen Völkerrechtes auch für
Deutschland und kann durch partikulären Rechtswillen nicht außer
Kraft gesetzt werden.

Die Einwendung ist denn auch seit 1946 immer mehr in den
Hintergrund getreten und spielt heute kaum noch eine nennenswerte
Rolle. Man können daher hier von der Erörterung der Beitritts-
erklärungen, Ratifikationen und Kündigungen sowie der Allbeteili-
gungsklausel absehen.

2. Was schließlich diese formale juristische Einwendung war
in den ersten Zeiten nach der Besetzung im Publikum die Meinung
verbreitet, die Nichtanwendung des Besetzungsrechtes auf

... Kollektivstrafe über das deutsche Volk
... zum Teil der Meinung sein, daß
... Bestimmungen als Kollektivstrafe gestatte. Nach dem-
jenigen jedoch, was oben im fünften Abschnitt über die Kollektiv-
strafe gesagt worden ist, läßt sich die Theorie von der Kollektiv-
strafe weder in ihrer populären noch in der auf Art. 50 gestützten
juristischen Form fassen. Wir brauchen hier auf das dort Vorgebrachte
nicht noch einmal einzugehen. Auch mit der Einwendung der Kollektiv-
strafe ist es seit 1946 immer stiller geworden.

Man darf sich jedoch keiner Täuschung darüber hingeben, daß die
Vorstellung, das deutsche Volk als Ganzes einschließlich aller Un-
schuldigen verdiene eine exemplarische Kollektivstrafe, noch immer
außerordentlich verbreitet ist. Rassenbewußtsein und Rassenüber-
heblichkeit, welche heute, wenn auch vielleicht in einer ab-
geschwächten Form, immer noch einen großen Prozentsatz der Men-
schen bei den arischen Völkern beherrschen, schließen vielfach,
bewußt oder unbewußt, die Sünden der uralten Krieger von der
Sippenschuld und Sippenhaftung in sich. Dazu kommen religiöse Glau-
benssätze darüber, daß die Gottheit die Sünden der Vorfäter an den
Nachkommen als ihr letztes Glied räche.

Weiter darf man nicht vergessen, daß schon seit den letzten Jahren
vor dem ersten Weltkrieg ein großer Pressefeldzug die Kampfböden
Machtkämpfe zwischen den Großmächten eingeleitet hat. Von den
Hundertern von Millionen von Menschen außerhalb Deutschlands, die
Deutschland nicht oder nur sehr wenig kennen, sind heute die all-
gemeinen nur mehr die annähernd Sechzigjährigen in der Regel,
vielleicht noch aus ihrer Jugendzeit her eines Zeitalters, das das
deutschen Volkes zu erinnern, das propagandistisch un-
Während der nationalsozialistischen Herrschaft, besond-
ten Weltkrieg; ist noch Folgendes dazugekommen. Während
Krieg und zur Zeit seiner propagandistischen Vorbereitun-
seitigen Regierungen und Presseorgane in den entschei-
gen meist das Gegenteil behaupten, waren 1933 bis
allgemeinen gesprochen, beide Teile recht gerne darin,
Deutschland 98 oder 99 Prozent der Bevölkerung...
Hitler brauchte eine solche Behauptung, die eine bewußt
organisierte Lüge war, um die Opposition im eigenen Land
jedem Versuch selbst nur einer passiven Resistenz, geschweige denn
einer Erhebung gegen seine Tyrannei abzuschrecken. Die Gegner
Deutschlands im Ausland aber konnten sich eine bessere propagandische
Propaganda gegen das deutsche Volk gar nicht wünschen, und was
man wünscht, das glaubt man gerne.