

### III

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## THE SOCIOLOGY OF THE DUAL STATE

### 1. 'PLANT-COMMUNITY' AND 'SHOP TROOP'

ANY sociological analysis which involves the use of the concept of 'community' must make use of the work of Ferdinand Toennies.<sup>477</sup> The distinction between 'community' and 'society' is not primarily a distinction between two types of relationships. It is rather a distinction between structural types, the emergence, development and decline of which are bound to premises which can be definitely determined.<sup>478</sup> In spite of his own personal predilection for the community, which derives its coherence from kinship and traditional ties (as it still does in the village community), Toennies had no illusions about the course which Western civilization is traversing: from community to society.

Alfred von Martin raised a very significant question therefore when he asked 'whether and to what extent the re-establishment of a communal form of social organization is possible today.'<sup>479</sup> Von Martin uses sharp words against those for whom the longing for 'community' is nothing but romantic yearning. In this connection he cites Werner Sombart's perverse book on German Socialism.<sup>480</sup>

In comparison with the common mass of National-Socialist glorifications of the *Gemeinschaft*, Sombart's book has at least the virtue that in addition to wishing to erase the two hellish centuries which have disordered the world since the beginning of the Industrial Revolution, and to return to the conditions of 1750, he also has the courage to call for the restoration of the economic conditions which would make a communal form of organization possible. It is more important to recognize Sombart's consistency

than to ridicule it. The vision of a communal organization established after certain necessary economic conditions have been created, is, at any rate, much less fantastic than the promotion of further industrialization while hoping for the re-establishment of the pre-capitalistic community.

It should not be forgotten that National-Socialism in its early stages contained elements who were interested in constructing the economic prerequisites for the existence of community. Those tendencies which were directed at the strengthening of the lower middle-classes, the demands for the abolition of department stores, the dissolution of the consumers' co-operatives and the elimination of trusts, as well as the anti-rationalization-laws of 1933, were representative of this aspect of the National-Socialist Program. But this section of the National-Socialist Program has long since been discarded. The National-Socialists who came to power as a result of middle class opposition to socialism are sacrificing to their aspiration of a new German empire the very substance of their *raison d'être*.<sup>481</sup>

Under the Four Year Plans, the industrialization of Germany, the modernization of its mills and factories, and the accumulation of capital have made rapid strides. Unwittingly, National-Socialism has corroborated Ferdinand Toennies' proposition that the trend from community to society cannot be stayed. This is especially true in the economic field.

The only German sociological study which has dealt with this problem – Heinz Marr's *Die Massenwelt im Kampf um ihre Form*<sup>482</sup> – is now of interest only for the history of National-Socialist ideologies, for Marr contended that labor problems were no longer of central importance in Germany. He stated that they had been replaced — by the problems involved in the situation of the peasant and small craftsman. Marr wrote under the inspiration of a kind of peasant socialism and all his expectations were built on the assumption that 'urban industrial society, though still comprising by far the larger part of the population, was steadily decreasing in relative importance.'<sup>483</sup> But the years 1934-9 have amply shown the fallacies in Marr's assumption. Since National-Socialism has associated its destiny with the remilitarization of

the German economy, all idyllic schemes built around peasants and craftsmen have become impossible of realization. Gigantic factories are so to speak springing out of the ground, armies of specialized laborers are feverishly busy ten and more hours a day and, at least since 1935, the army demanded as a military necessity that industry be so mechanized that women and children would be able to replace skilled workers needed for the armed forces. Thus National-Socialism has not retraced the path of the Industrial Revolution of the nineteenth century. It has rather sought to accelerate it.

Is the type of rationalized, impersonal and complex system necessitated by industrialization compatible with a 'communal' ideology? And what are the causes and consequences of this experiment which National-Socialism has announced itself ready to carry out?

The National-Socialists are no academic theorists. In order to prove the correctness of their communal ideology, they point to their success. They claim that they have created new communal forms during their struggle for power. For them the SA (Storm Troopers) and the SS (Blackshirts), the Labor Service and the Hitler Youth are great manifestations of the new communal ideology. The National-Socialists claim to have proved (and this is one of their supreme dogmas) that a 'communal' ideology and a 'communal' social structure can be had if the real will to have it exists. If this was possible in the case of the SA, the SS and the HJ (Hitler Youth) why should it not also be possible outside of and beyond such political organizations? Thus the National-Socialists have tried to reorganize non-political groups — the family, the farm, the factory, the apartment house, the business and craftsmen groups along the lines of the militant political organizations.

Once the spirit of the SA has penetrated the workshops and factories with a 'communal sense,' the aims of National-Socialism will have been achieved. Every social, group will then become a community and constitute as such a source of thinking according to the concrete theory of order. The above ideas form the nucleus of the social theory of National-Socialism. The most important

academic interpreter of this theory of the 'totalitarian community,' designed after the model of the political formations, is Professor Reinhard Hoehn of the University of Berlin. This National-Socialist attitude is very prominent in the discussion between Koellreutter, Professor of Constitutional Law at the University of Munich, and Hoehn, Professor of Political Science at the University of Berlin. Koellreutter had claimed that it is the task of law to give a certain degree of calculability to acts of the state so that the people may have a certain degree of legal security. To this view, Hoehn responds that 'this problem does not exist for a communally oriented point of view.'<sup>484</sup>

In this connection the problem of ideology becomes particularly acute. If it is true that the processes of rationalization and impersonalization have been accelerated, what then is the significance of the diffusion of this communally oriented outlook? This apparent contradiction between the relationship involved in economic life and the National-Socialist *Weltanschauung* is dissolved once we grasp the falsity of the communally oriented ideology. Even if the entire population had become National-Socialist, the attitudes of the members of the various social groups (the workers of a factory, the inhabitants of an apartment-house, the people of a farm etc.) would not necessarily be communally oriented, and, as will be demonstrated, this was least so in those groups most exposed to the 'SA spirit.'

The extension of the communally oriented attitudes from the realm of politics to the field of non-political relations has been expressed by National-Socialist theorists in this syllogism: SA attitudes are communally oriented attitudes, attitudes of the factory groups are identical with SA attitudes, hence attitudes of factory groups are communally oriented.

If we examine the major premise the fallacy will immediately be obvious. We are not interested here in the correctness or falsity of National-Socialism's interpretation of its own history, but rather in the validity of the proposition that the attitudes of Storm Troopers are communally oriented. For, even if the whole legend of the period of struggle were actually true, there could still be no doubt that during its classical phase the SA was not a *Gemein-*

*schaft* (community) as modern sociologists understand the term. It formed rather, during the period of the 'struggle for power,' what might be called a 'fraternity' (*Bund*).

In one of the best sociological analyses by a National-Socialist, Andreas Pfenning's 'Gemeinschaft und Staatswissenschaft,' the term 'community' is used for the National-Socialist military associations; but when he characterizes these groups with the following words we see that he has something different in mind: 'The basic experience was not idealistic, it was not the will to fight for an ideal, for an idea which presides with eternal validity over the activities of mankind. The SA did not emerge in the struggle for an ideal, the True, the Good and the Beautiful. This basic experience came into existence in the course of the struggle.'<sup>485</sup> Reinhard Hoehn has a similar concept when he writes that 'the SA is not defined by a common set of beliefs.'<sup>486</sup>

These negative criteria justify our designation of the National-Socialist battle formations as fraternities (*Bünde*). The sociological category of the *Bund* was first developed by Hermann Schmalenbach. This notion has since been employed by numerous German sociologists, e.g. von Martin, Marr and Behrendt.

Hermann Schmalenbach's investigations<sup>487</sup> of the *Bund*, which are indispensable to the scientific analysis of National-Socialism, are somewhat influenced by Max Weber's theory of domination, especially by his distinctions between rational, traditional, and charismatic domination. Schmalenbach presents his own work as an extension of Toennies' treatment of community and society, and in the course of his discussion it becomes clear that the counterpart of community in the power sphere is what Weber called 'traditional domination,' while the counterpart of rationalized impersonal society is Max Weber's 'rational domination.' From this, Schmalenbach proceeded to the conclusion that the counterpart of charismatic domination is the 'fraternity' (*Bund*).

The followers of a charismatic leader (*Führer*) do not constitute a community (*Gemeinschaft*) but rather a fraternity (*Bund*). They are associated not on the basis of traditionally valid norms and habitual patterns of conduct but rather on the basis of common emotional experiences. The individual is born into the com-

munity but he enters the fraternity on his own decision. The community aims at the preservation of traditional values, while a fraternity unites those individuals who have been freed from all traditional norms. The community exists even when the individual member is not fully conscious of his membership in the group, but membership in the fraternity involves an act of self-conscious decision. The community lives by traditional values and transmits them to the next generation. The *Bund*, made up of the organized followers of a charismatic leader, is (like charisma itself) transitory, and unstable. The community is a stable and continuous formation. Like charisma, the fraternity stands in contrast to the matter-of-fact routines of daily life. As soon as the authority of the charismatic leader becomes routinized and continuous, the 'fraternity' ceases to be a fraternity. Routinization leads to the dissolution of the fraternity or to its transformation, either into society or community.

Friedrich Schiller's *Die Räuber* provides a classical description of the 'fraternity.' Around Karl Moor, the leader, whose career has been disrupted, equally uprooted comrades assemble in order to transform the world. But at bottom, they do not want a revolution in the structure of society. They do not attack the present order; rather they complain that other people and not they are in power within this order. They desire only the supplanting of the ruling *élite* by a new *élite* formed from their fraternity. Unfavorable circumstances compelled Karl Moor's fraternity to take refuge in the Bohemian forests and there to lead the life of robbers. Under more favorable circumstances, Moor would have attained political dominance; his followers would have become the new *élite*, divided up the spoils, but would have left the structure, of society unchanged. The successful charismatic revolution is the ideal type of the *circulation des élites*.

Shortly after their accession to power, the National-Socialists made a genuine attempt to reorganize the factories in accordance with the model of the Storm Troops. By roll-calls, daily flag ceremonies and evenings of comradely entertainment, they attempted to engender the spirit of the SA in the factories. The experiment failed, however, after a short time. Werner Mansfeld,

the National-Socialist expert on labor law, has formulated the effect of this transplanting of the fraternity ideology into other social groups, affirming that 'even if no reference had been made to his role as leader, the dominant position of the employer would legally have been the same.'<sup>488</sup> Heinz Marr, though an enthusiastic National-Socialist, is a sufficiently good sociologist to see the serious difficulties to be overcome in any reconstruction of social groups in order to bring them closer to the spirit of National-Socialist battle formations. 'The fraternity may make very intense impressions on its members, but these impressions do not last in their original forms.' And he continues 'purely economic and legal relationships are incompatible with fraternity attitudes.'<sup>489</sup> But Marr touches only the real problem as to whether it would be possible to implant communally oriented attitudes in non-communal groups. 'One quickly realizes,' he says, 'how much more difficult it is to transplant the attitudes of the fraternity which now prevail in the political sphere of the state into the sphere of business and particularly into big enterprises.'<sup>490</sup>

After the failure of the most diverse experiments, such as the establishment and dissolution of the NSBO (*Nationalsozialistische Betriebszellen-Organisation*), the National-Socialists realized that their object could not be achieved in the plants. Hence, at present, they are trying a new mode of attack: the *Werkscharen* (Shop Troops). In 1938 Dr. Ley, the leader of the German Labor Front, remarked that 'without a firmly organized Shop Troop ... the factory community would ultimately degenerate into a yellow trade union.'<sup>491</sup> Thus Dr. Ley attests the fact that the destruction of the labor unions, the elimination of the factory council and the violent suppression of all manifestations of proletarian class consciousness had led exactly to the result which the foes of National-Socialism always predicted: the yellow trade union. Having admitted failure, National-Socialism has adopted a new means of transforming private capitalistic enterprises into 'communities' — the Shop Troop. 'It is,' says Dr. Ley, 'the soldier-like nucleus of the factory community which obeys the *Führer* blindly. Its motto is: the Leader is always right.'<sup>492</sup> Thus the project to organize the whole factory as a fraternity and then to call it a community

has been dropped. Instead the vanguard within the factory is formed to represent a fraternity. Dr. Ley left nothing unsaid when he outlined the tasks of the Shop Troops: 'Should Germany once more have to undergo a severe trial of strength and should this process lead to serious disturbances in the factories as it did during the last war ... every factory must be organized so that it will itself be able to take the measures necessary for the creation of order.'<sup>493</sup> The 'soldierlike nucleus of the factory community' is intended to suppress any independent expression of the workers' demands and to 'create order.' Shop Troops are organizations for the suppression of strikes, but, says Dr. Ley, 'the Shop Troop must be prevented by all means from becoming — if not at present, then perhaps in fifty or a hundred years — a class-troop.'<sup>494</sup> Dr. Ley expressly rejects the possibility of organizing the Shop Troops of the different enterprises into large associations. On the contrary, 'the factory is the center of the Shop Troop. Hence the Shop Troops cannot constitute a hierarchical organization embracing all the Shop Troops in a city, or a district, or in the Reich as a whole.'<sup>495</sup>

In his description of the Shop Troops Dr. Ley stresses the differences between them and the other quasi-military organizations of the SA and SS. This structure of the Shop Troops differs also from those of the estate organization of the non-manual occupations. In the various entrepreneurial and professional groups, no objections have been raised against organizations transcending local boundaries. But Dr. Ley and the National-Socialist leadership have deliberately sought to prevent such translocal organization of the Shop Troops in order to avoid the danger of distracting these groups whose class homogeneity is pronounced from their proper tasks. The Shop Troops recruit a small group from within the whole force of the plant to counteract any defections on the part of the rest of the working force. Without this institution, Dr. Ley believes that the factories would remain a potential source of disorder. And the dangers would only be re-introduced if translocal organization of the Shop Troops were allowed. Thus all that Dr. Ley has done is to confer the honorable title of community on a strike-breaking agency. The Shop Troops are noth-



ing but a factory police agency appropriating certain fraternal characteristics and veiled by the community ideology.

Meanwhile, even the National-Socialist Storm Troops, which had been genuine fraternities, continue to lose their fraternal character and become bureaucratized and rationalized. This evolution became most clear in the case of the SS, which had been transformed into a real police force. The unstable character of the fraternity is responsible for the continual failures of the efforts to impose fraternal character on rationalized social and economic structures. The incompatibility between the emotional and unspecific character of fraternal attitudes and the sober necessities of modern economic enterprise constitutes a further obstacle to the realization of the National-Socialist program.

These theoretical considerations are corroborated by experience. The social and economic organizations of the Third Reich have remained what they were before Hitler's seizure of power: rationalized and co-ordinated entities, governed by calculations of gain and loss. That these social structures are called 'communities' and that in unimportant matters concessions are made to communally oriented attitudes, changes nothing. They serve only to veil the true character of these structures and to reinforce the existing system of domination.

Mansfeld, giving the most explicit form to this aspect of National-Socialism, says: 'The faithfulness of the ethnic comrades (*Volksgenossen*) to the Leader and of the Leader to the ethnic comrades must not be confused with material considerations.'<sup>496</sup> The pseudo-'community' of present-day Germany is nothing but the capitalistic system of production incidentally modified, though fundamentally the same as before. The communally oriented concrete theory of order is nothing but the new legitimation of this capitalistic legal order. Romantic enthusiasm for the 'community' should not prevent our seeing the highly unromantic re-inforcement of certain aspects of modern capitalism.

The political economist applies the conceptions of law and property of the pre-capitalistic era to this completed world of capital, and, the more the facts are at variance with his ideology,

all the more anxious is his zeal and all the greater his function.<sup>497</sup>

Pfenning has stated with unusual directness that the function of all Fascist undertakings is 'to galvanize with the aid of a strong state the tradition of bourgeois-capitalistic class society and to preserve this order by means of state interference at those points where difficulties arise.'<sup>498</sup> Pfenning's view is by no means rare in the National-Socialist literature. Neese goes so far as to infer a general law from this common tendency of all Fascist revolutions by saying that 'today every revolutionary movement must be concerned with preserving the integrity of the economic system.'<sup>499</sup> Theoretically competent National-Socialists are well aware of the social character of Fascism; they do not deny that it is the political structure appropriate to the imperialistic phase of capitalism. Pfenning remarks: 'Community is a cleverly designed necessity for the maintenance of certain social relationships.'<sup>500</sup> According to him, the German community, which is constituted by 'blood' and not by any rational concept has, thanks to its racial basis, a 'natural system of ranks' the nature of which entitles it to acceptance.

## 2. ETHNIC COMMUNITY AND ARMAMENT BOOM

The refutation of the opinion that certain economic and social structures have been permeated with communally oriented attitudes does not settle this question as to the extent to which National-Socialism has succeeded in fusing the German people into an ethnic community (*Volksgemeinschaft*).

At this point, we should recall what we said earlier about one of the primary conditions for the triumph of National-Socialism, namely, the successful refutation of utopian pacifism which the German parties of the Left espoused after the war. National-Socialists challenged the faith in salvation through international order as represented by the rational League of Nations and proposed instead the dogma that the resurrection of the Fatherland could be attained only by the union of all Germans against the common enemy. The idea of the ethnic community undoubted-

ly arose out of the defeat in the last war, and the subsequent misery, and out of the conscious opposition to foreign powers.

This connection between belief in an external threat and the awakening of domestic solidarity is not a chance phenomenon. 'Only in cases of a common danger can communal action be expected with some degree of probability.'<sup>501</sup> At the same time it should be remembered that 'no community is so strong as to be indissoluble.'<sup>502</sup> It is obvious that if belief in external threats is the principal source of communally oriented attitudes, internal cleavages will increase as this belief diminishes.

Communally oriented attitudes are accorded the status of absolute values in National-Socialist Germany. The National-Socialist Party views the preservation of these values as its chief task. However, if devotion to the community is immediately dependent on the magnitude of an actual or imagined threat, it is possible to explain the paradox which we will call the 'political scissors' of National-Socialism, i.e., the more successful the foreign policy of National-Socialism, the greater the contradiction between the National-Socialistic domestic policy and the international position of Germany.

If the ethnic community has an absolute value in itself, then it is dependent upon the existence of an enemy. If communally oriented attitudes are intensified by the existence of an actual or imagined enemy, then the preservation of the ethnic community is favored by the existence of an enemy whose hostility endures as long as the ethnic community itself. It does not matter whether this enemy is real or imaginary. Nor is it of much importance who the enemy is. The mere fact that an enemy exists is the important point. The continuous existence of an enemy is a substitute for rational goal.<sup>503</sup> 'War is the source of everything. The form of the state as a whole is determined by the nature of the total war ... the total war, however, obtains its meaning from the total enemy.'<sup>504</sup>

Adolf Hitler expressed the same idea at the Nürnberg Party Congress in September 1935: 'Driven by savage impulses, peoples and races fight without knowing the objectives for which they

fight.<sup>505</sup> An editorial of the *Völkischer Beobachter* of December 21, 1931 stated, in like vein:

The *Rechtsstaat* (Rule of Law State) is the organization which unifies all the energies of the ethnical group for the protection of its right, both domestically and in the world at large.... This can only be accomplished by the concentrated force of the people as a whole, just as only concentrated explosives were able to stop the tanks which attacked the front line. This organized application of the concentrated energies of the people for the protection of its life represents our conception of the *Rechtsstaat*.

It may be noted that it was not the author of this book who exhumed this editorial. The Secretary of the Ministry of Justice Freissler — the author of this article — thought it good enough to be reproduced in the *Handwörterbuch der Rechtswissenschaft*.<sup>506</sup> The fact that the opinion of a politically motivated lawyer during the period of the struggle for power has become the official opinion of a high state official and has been incorporated into the chief publication of National-Socialist legal theory is evidence enough that even the best-trained National-Socialist jurists are still living in the ideological atmosphere of the days before 1933. To define the *Rechtsstaat* as a concentrated explosive may have been effective during the period of preparation for the charismatic revolution. But that the figure should have been repeated three years after the National-Socialists had taken power reveals that the movement had no substantial aims. Once the restoration of regularity which followed the charismatic revolution had been consummated, nothing remained but recollections and the quest for enemies — old or new.

At this point we are able to perceive the significance of the Jewish problem for National-Socialist policy. The threat of racial danger which the Jews constitute (according to the National-Socialist theory) is intended to have an integrating influence. According to the National-Socialist conviction, the Jew is incessantly striving to undermine Germany in order to attain complete domination over the world. Hence Germany is faced by a lasting state of emergency which can be overcome only by establishing the ethnic community. National-Socialist propagandists have en-

deavored to present the Jew as a demon.<sup>507</sup> Any restriction on freedom and material well-being can be justified on the ground of its necessity for protection from this demon.

The ethnic community is the supreme value in the National-Socialist value system. Everything which might injure this community is considered a disintegrating element. In any discussion or any dispute over religious, ethical or social questions lies the possibility of disrupting the integrity of the community. Every type of group which is devoted to substantive values other than the ethnic community presents this danger. In the words of Professor Hoehn of the University of Berlin: 'From the standpoint of the ethnical community every association for which values other than the community itself are central is destructive of the community.'<sup>508</sup> Making a fetish of the ethnic community implies the refusal to tolerate associations based upon values other than its own, the rejection of the autonomy of the law, the repudiation of all norms of rational Natural Law, the identification of justice and convenience.

Belief in the reality of external threats contributed to the establishment of the ethnic community; its preservation necessitates the discovery or creation of external dangers. The myth of a 'permanent emergency' would not find credence if it could not be shown that a hostile army is permanently ready to attack. Thus, if there are no real enemies, they have to be created. Without enemies, there can be no danger, and without danger, there can be no communally oriented attitudes, and without communally oriented attitudes there could be no ethnic community. Were there no ethnic community then associations based on religious, ethical, social or political values could not be suppressed.

### 3. THE CONCEPT OF POLITICS IN NATIONAL-SOCIALIST THEORY

In National-Socialist thought the concept of politics is defined by reference to 'the enemy.' All deeper understanding of National-Socialist policies depends on our grasp of the nature of politics as interpreted by National-Socialism. Many misunderstandings of

National-Socialist policies arise from erroneous conceptions of the meaning of political activity for National-Socialism.

It would be well to open our discussion with an analysis of the conceptions of politics implicit in each of the major types of domination.

*Traditional domination* is characterized by the fact that neither the dominator nor the dominated gives evidence of having a notion of what we call politics. In the Middle Ages (the period par excellence of traditional domination), as F. Kern<sup>509</sup> once pointed out, social thought allowed no place for this specifically political aspect of the state. The realm of the state and politics was completely controlled by law. Actions which today would be viewed as political were regarded by the age of traditional domination as controversies over subjective rights.

*Rational domination* has been associated with the attempt to organize and canalize conflicts over values through political institutions. The late Austrian historian Ludo Moritz Hartmann, a rationalistic democratic-socialist, once defined politics as 'the art of canalizing social activity into legal form.'<sup>510</sup> This definition is as appropriate to the rational type of domination as it is foreign to the other types.

The special character of this definition becomes all the more clear when we contrast it with Carl Schmitt's<sup>511</sup> definition of politics as the 'friend-enemy' relationship. This definition of political activity has a rather interesting ancestry. It is based directly on Rudolf Smend's essay on political power in the constitutional state. Smend inquires into the distinguishing characteristics of government and administration. He concludes that the decisive criterion of government is its 'political' character and that the mark of administration is its 'technical' character. Smend claims that this distinction is equally applicable to both domestic and foreign politics. 'Contentlessness,' he says, 'is a characteristic of all foreign policy in so far as it has political and not technical objectives.... The political element which in domestic affairs distinguishes political statecraft from technical administration is exactly the same.'<sup>512</sup> In a footnote, Smend acknowledges, as his source for this idea, Josef Schumpeter's famous essay *Zur Soziologie der*

*Imperialismen*.<sup>513</sup> There Schumpeter asserted that the aimless quest for power is the central element in imperialistic expansionism.

From Smend's assertion that aimlessness is the essential characteristic of all political activity, Schmitt deduced the proposition that the existence of an enemy is the essential element in political activity. Thus, Schmitt furnished a legitimation for National-Socialism by showing that the absence of a positive content to political activity is not a shortcoming but rather a complete realization of the nature of political activity. Schmitt's definition of politics hypostatizes a political conception of fraternity (*Bund*). This kind of politics, in a situation in which traditional values have lost their binding power and rational values are not acceptable, is oriented towards the attainment of power for its own sake. In 1932 the American journalist Knickerbocker asked leading National-Socialists what the National-Socialist Party would do after it seized power. The reply was: 'Keep it!'<sup>514</sup>

This briefly was the National-Socialist conception of politics. To consider the fight for power neither as a struggle for subjective rights nor as a fight for the realization of objective ideas of justice, to gain and to hold power without legal title and without legal objective regardless of legal principles — all these are only corollaries of the central interest in power for the sake of power.<sup>515</sup>

A major element in the victory of the Rightist elements in postwar Germany was the fact that they were seized by the *furor politicus* in the debacle of 1918-19, and, impelled by its force, came to triumph over the largely depoliticized Leftist elements. The defeat of the Left was preceded by its renunciation of 'political politics' — expressed perhaps most characteristically by Walther Rathenau in the introduction to his book *Vom neuen Staate*, published in March 1919. 'The war and its aftermath, the peace,' he said, 'seem to have been the florescence of all the great questions of "political policy"; in reality, however, they have destroyed "political policy" ... foreign and political policy will remain on the stage a little while longer but will soon be replaced by economic

and social policy.<sup>516</sup> Contrary to Rathenau's expectations, economic and social policy were to remain on the stage for only a short time, yielding their places to those men who realized that political activity and not pure economic policy would be decisive.

It seems necessary repeatedly to point out the role of foreign policy in the development of National-Socialism. It should not be forgotten that faith in law in international relations had been abused. The fact that war indemnities were called 'reparations' and a predatory invasion like the occupation of the Ruhr Basin was called a 'sanction' was a blow to those Leftist groups in Germany which believed in the validity of Natural Law programs. They never recovered from this blow. The emergence of National-Socialism cannot be understood without taking into account the effects of Poincaré's foreign policy on the internal situation in Germany.

National-Socialist negation of all universally valid values and its suppression of all communities based upon such values, its negation of an order sanctioned by Natural Law may be said to be at least partially due to foreign threats; at the same time, it is necessary to recognize that the relaxation of the international threat was accompanied by an intensification of the war against internal disintegration.

The international threat was seized upon by German capitalism as an opportunity to stabilize the social and economic order and thus to facilitate the realization of its own interests. When the threat declined, it became necessary to invent one. The defenders of capitalism in post-war Germany were unable to convince the masses of the German people that it was the best of all economic systems. Capitalism had no chance in a democratic struggle against proletarian socialism, in whose extirpation its salvation lay. The violence of the German tyranny is indicative not only of its power but also of its fear of losing that power, a sign not only of its political strength but also of its social weakness. 'Early capitalism ... as well as capitalism in its decadent period, characterized by a highly unstabled social equilibrium, stands under the sign of state autocracy,<sup>517</sup> as Hans Kelsen has formulated this phenomenon.



In an ideologically distorted form, this proposition has been supported by Professor Herrfahrdt of Marburg University. To his own heretical question: 'May we assume the people to be united by the National-Socialist idea, or is a Leader necessary because the idea has no real unifying power?' he answers: 'The German people, because of their disunity, are united in their need of a Leader.'<sup>518</sup>

How spurious is the ethnic community of a people whose Leader finds it necessary to punish a few youths for hiking in unauthorized uniforms, because such an 'offence' might undermine national unity! How fundamentally different is this attitude from the one expressed by the English statesman Balfour: '... it is evident that our whole political machinery presupposes a people so fundamentally at one that they can safely afford to bicker; and so sure of their own moderation that they are not dangerously disturbed by the never-ending din of political conflict.'<sup>519</sup> How fundamentally different is it from the proud words of Thomas Jefferson's first Inaugural Address, written after one of the bitterest fights in American history:

If there be any among us who would wish to dissolve this Union, or to change its Republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it.<sup>520</sup>

In present-day Germany, the forces which might create a real unity have been shattered. Hitler does not dare to follow Hegel's recommendations regarding the toleration of religious sects. A policy which cancels a peddler's permit if he is suspected of sympathy with Jehovah's Witnesses, regrets Hegel's plea for tolerance — and it should be remembered that Hegel has always been looked on as the most extreme idolator of the state. The toleration which Hegel demanded for the religious sects obviously did not involve a public danger in the Prussia of 1820.

Hegel mentions in this connection the Quakers and Anabaptists and characterizes both as members of civic society who are not citizens of the state. He proposes that the state shall exercise tolerance towards the members of these groups as long as the state may rely upon the 'inner reason' of its institutions.<sup>521</sup>

Adolf Hitler's Germany, however, cannot rely upon the 'reason of its institutions'; the social body of the people is, at bottom, not homogeneous enough.

German capitalism once sincerely believed that its own development would contribute to world peace, well-being and culture. Present-day German capitalism has lost this belief in its humanitarian mission. Having lost the belief in its own rationale, it elevates the cult of the irrational to the status of a modern religion. Both early capitalism and mature capitalism have faced crises and mastered them by economic means. The late-capitalism of the post-war Germany used only one method to overcome the crisis which threatened its existence, the armament boom. Early liberal capitalism sought to reduce the functions of the state to a minimum because it had faith in its own inherent laws. Contemporary German capitalism, however, needs a state which removes its socialist opponent, proves that 'private benefit is public benefit' and provides it with the external enemies against whom it must arm itself as a *sine qua non* for its preservation.

In 1653 the noble-estates were willing to tolerate the absolute rule of the Great Elector in exchange for absolute authority over the serfs. In the same manner the German business dealers recognized the rule of the National-Socialist Party in 1933 in exchange for the strengthening of their own power.

The National-Socialist Party promised that as far as possible interferences with business would be avoided, that the entrepreneur would again be master of his enterprise, and that free initiative would be preserved. Another important guarantee which the National-Socialist Party had to extend to German capitalism was (as Dr. Schacht<sup>522</sup> declared to the heavy applause of German business leaders) the preservation of an objective orderly legal system, the Normative State.

German capitalism today requires state aid in two respects: (a) against the social enemies in order to guarantee its existence, and (b) in its role as guarantor of that legal order which is the pre-condition of exact calculability without which capitalist enterprise cannot exist. German capitalism requires for its salvation a dual, not a unitary state, based on arbitrariness in the politi-

cal sphere and on rational law in the economic sphere. Contemporary German capitalism is dependent on the Dual State for its existence.

Alfred von Martin perceived the dual character of the contemporary German state and expressed his conclusions as directly as one is permitted to do so in Germany: 'When the masses are organized by means of irrational ideologies the real nature of the prevailing method of domination is tinged with a communal tone. This type of domination combines rational bureaucratic methods with irrational or — to use Max Weber's terminology — charismatic ones.'<sup>523</sup>

The only political scientist in National-Socialist Germany who has so much as caught a glimpse of this problem is Professor Koettgen of the University of Greifswald. His debt to Max Weber is apparent: 'It is precisely the Leader-state which cannot dispense with charismatic forms of leadership, but at the same time the rulers of the modern state, in order to satisfy the diverse, numerous demands of the population, are inevitably forced to depend upon highly rationalized and bureaucratized forms of organization.'<sup>524</sup>

This integration of rational and irrational activities which is peculiar to the Dual State — this rational core within an irrational shell — brings us to the culmination of our investigation. The author accepts Karl Mannheim's distinction between substantial and functional rationality as particularly relevant to this problem. This distinction can perhaps be best exemplified by reference to chess. When it is said that chess is too serious for a game and too much of a game to be serious, the word 'game' implies the lack of substantial rationality (characteristic of any game) whereas the word 'serious' represents the high degree of functional rationality which many consider 'too high.'<sup>525</sup>

The legal order of the Reich is thoroughly rationalized in a functional sense for the regulation of production and exchange in accordance with capitalistic methods. But late capitalistic economic activity is not substantially rational. For this reason, it has had recourse to political methods, while giving to these methods the contentlessness of irrational activity. Capitalism at its best was

a system of substantial rationality which, relying on the pre-established harmony which guided its destinies, exerted itself to remove irrational obstacles. When the belief in the substantial rationality of capitalism disappeared its highly rationalized functional organizations still remained. What is the character of the tension which arises out of the juxtaposition of disappearing substantial rationality and an over-developed functional rationality?

Carl Schmitt, while writing still in the name of political Catholicism, described the incongruity between functional and substantial rationality with the acuteness and lucidity characteristic of his earlier writings: 'Our economic organization,' Schmitt wrote, 'represents a thoroughly non-rational consumption hand in hand with a highly rationalized production. A mechanism which is a marvel of technical achievement caters indifferently and with equal thoroughness and exactitude to any and every demand, whether it be for silk blouses or poison gas.'<sup>526</sup> As long as Carl Schmitt still believed that Roman-Catholicism would eventually be triumphant — that 'the inheritance will be hers' — he was profoundly disturbed by this incongruity. He wrote:

This alarm felt by genuine Catholics arises from the knowledge that the notion of rationality has been distorted in an utterly fantastic manner; a mechanical system of production purporting to cater to any and every material requirement is described as "rational," though at the same time the rationality of the purpose served by this supremely rational machine (which purpose is the only essential point) is left wholly out of account.<sup>527</sup>

After he had turned his back on the Catholic Church, Schmitt lost this 'genuine Catholic alarm' as well as the realization that the only essential rationality is the rationality of ends. He sought security in Sorel's theory of the myth, which an intelligent young National-Socialist, Heyne, once characterized as 'irrational, and therefore irrefutable and absolutely safe from the attack of rational criticism.'<sup>528</sup> Thus a myth proves to be the haven in which the capitalistic system in Germany seeks refuge. The 'myth of the twentieth century' is not only the title of the National-Socialist Bible; it is also one of the means by which there was established and maintained a state which defends itself against

rational criticism by denying the validity of substantial rationality itself, as Heyne said: 'The correctness of an idea is of no interest to the political community and the political movement ... ideas are only ideologies, they are exposed to criticism and hence subjected to decomposition.... Only that is true which works and which helps and supports man and his community in the struggle for existence.'<sup>529</sup>

Thus German capitalism, finally realizing the irrationality of its own existence, discards substantial rationality. The tension which arose from the interplay of the disappearance of substantial rationality and the high development of functional rationality is rendered more acute by the self-consciousness with which the two processes are fostered. In order to augment technical rationality, the irrationality of the ends is intensified; and the belt to attain these irrational ends, technical rationality, is heightened. For the sake of the armament industries, armaments pile up; for the sake of armaments, armament industries prosper.

Faced with the choice between substantial rationality and substantial irrationality, German capitalism casts its vote for the latter. It will accommodate itself to any substantial irrationality if only the necessary pre-requisites for its technically rational order are preserved. German capitalism has preferred an irrational ideology, which maintains the existing conditions of technical rationality, but at the same time destroys all forms of substantial rationality.<sup>530</sup> If such substantially irrational ideology is useful to capitalism, the latter is ready to accept the programmatic aims of this ideology. This symbiosis of capitalism and National-Socialism finds its institutional form in the Dual State. The conflict within society is expressed in the dual nature of the state. The Dual State is the necessary political outgrowth of a transitional period wrought with tension.

The solution of these tensions depends ultimately on ourselves.