

## CHAPTER IV

### THE TREATY

THE thoughts which I have expressed in the second chapter were not present to the mind of Paris. The future life of Europe was not their concern; its means of livelihood was not their anxiety. Their preoccupations, good and bad alike, related to frontiers and nationalities, to the balance of power, to imperial aggrandizements, to the future enfeeblement of a strong and dangerous enemy, to revenge, and to the shifting by the victors of their unbearable financial burdens on to the shoulders of the defeated.

Two rival schemes for the future polity of the world took the field,—the Fourteen Points of the President, and the Carthaginian Peace of M. Clemenceau. Yet only one of these was entitled to take the field; for the enemy had not surrendered unconditionally, but on agreed terms as to the general character of the Peace.

This aspect of what happened cannot, unfortunately, be passed over with a word, for in the minds of many Englishmen at least it has been a subject of very great misapprehension. Many persons believe that the Armistice Terms con-

stituted the first Contract concluded between the Allied and Associated Powers and the German Government, and that we entered the Conference with our hands free, except so far as these Armistice Terms might bind us. This was not the case. To make the position plain, it is necessary briefly to review the history of the negotiations which began with the German Note of October 5, 1918, and concluded with President Wilson's Note of November 5, 1918.

On October 5, 1918, the German Government addressed a brief Note to the President accepting the Fourteen Points and asking for Peace negotiations. The President's reply of October 8 asked if he was to understand definitely that the German Government accepted "the terms laid down" in the Fourteen Points and in his subsequent Addresses and "that its object in entering into discussion would be only to agree upon the practical details of their application." He added that the evacuation of invaded territory must be a prior condition of an Armistice. On October 12 the German Government returned an unconditional affirmative to these questions;—"its object in entering into discussions would be only to agree upon practical details of the application of these terms." On October 14, having received this affirmative answer, the President made a further communication to make clear the points:

(1) that the details of the Armistice would have to be left to the military advisers of the United States and the Allies, and must provide absolutely against the possibility of Germany's resuming hostilities; (2) that submarine warfare must cease if these conversations were to continue; and (3) that he required further guarantees of the representative character of the Government with which he was dealing. On October 20 Germany accepted points (1) and (2), and pointed out, as regards (3), that she now had a Constitution and a Government dependent for its authority on the Reichstag. On October 23 the President announced that, "having received the solemn and explicit assurance of the German Government that it unreservedly accepts the terms of peace laid down in his Address to the Congress of the United States on January 8, 1918 (the Fourteen Points), and the principles of settlement enunciated in his subsequent Addresses, particularly the Address of September 27, and that it is ready to discuss the details of their application," he has communicated the above correspondence to the Governments of the Allied Powers "with the suggestion that, if these Governments are disposed to effect peace upon the terms and principles indicated," they will ask their military advisers to draw up Armistice Terms of such a character as to "ensure to the Associated Gov-

ernments the unrestricted power to safeguard and enforce the details of the peace to which the German Government has agreed." At the end of this Note the President hinted more openly than in that of October 14 at the abdication of the Kaiser. This completes the preliminary negotiations to which the President alone was a party, acting without the Governments of the Allied Powers.

On November 5, 1918, the President transmitted to Germany the reply he had received from the Governments associated with him, and added that Marshal Foch had been authorized to communicate the terms of an armistice to properly accredited representatives. In this reply the Allied Governments, "subject to the qualifications which follow, declare their willingness to make peace with the Government of Germany on the terms of peace laid down in the President's Address to Congress of January 8, 1918, and the principles of settlement enunciated in his subsequent Addresses." The qualifications in question were two in number. The first related to the Freedom of the Seas, as to which they "reserved to themselves complete freedom." The second related to Reparation and ran as follows:—"Further, in the conditions of peace laid down in his Address to Congress on the 8th January, 1918, the President declared that invaded territories must be restored as well as evacuated and made

free. The Allied Governments feel that no doubt ought to be allowed to exist as to what this provision implies. By it they understand that compensation will be made by Germany for all damage done to the civilian population of the Allies and to their property by the aggression of Germany by land, by sea, and from the air."<sup>1</sup>

The nature of the Contract between Germany and the Allies resulting from this exchange of documents is plain and unequivocal. The terms of the peace are to be in accordance with the Addresses of the President, and the purpose of the Peace Conference is "to discuss the details of their application." The circumstances of the Contract were of an unusually solemn and binding character; for one of the conditions of it was that Germany should agree to Armistice Terms which were to be such as would leave her helpless. Germany having rendered herself helpless in reliance on the Contract, the honor of the Allies was peculiarly involved in fulfilling their part and, if there were ambiguities, in not using their position to take advantage of them.

What, then, was the substance of this Contract to which the Allies had bound themselves? An examination of the documents shows that, although a large part of the Addresses is concerned

<sup>1</sup> The precise force of this reservation is discussed in detail in Chapter V.

with spirit, purpose, and intention, and not with concrete solutions, and that many questions requiring a settlement in the Peace Treaty are not touched on, nevertheless, there are certain questions which they settle definitely. It is true that within somewhat wide limits the Allies still had a free hand. Further, it is difficult to apply on a contractual basis those passages which deal with spirit, purpose, and intention;—every man must judge for himself whether, in view of them, deception or hypocrisy has been practised. But there remain, as will be seen below, certain important issues on which the Contract is unequivocal.

In addition to the Fourteen Points of January 18, 1918, the Addresses of the President which form part of the material of the Contract are four in number,—before the Congress on February 11; at Baltimore on April 6; at Mount Vernon on July 4; and at New York on September 27, the last of these being specially referred to in the Contract. I venture to select from these Addresses those engagements of substance, avoiding repetitions, which are most relevant to the German Treaty. The parts I omit add to, rather than detract from, those I quote; but they chiefly relate to intention, and are perhaps too vague and general to be interpreted contractually.<sup>1</sup>

<sup>1</sup> I also omit those which have no special relevance to the German Settlement. The second of the Fourteen Points, which

*The Fourteen Points.*—(3). “The removal, so far as possible, of all economic barriers and the establishment of an equality of trade conditions among *all* the nations consenting to the Peace and associating themselves for its maintenance.” (4). “Adequate guarantees *given and taken* that national armaments will be reduced to the lowest point consistent with domestic safety.” (5). “A free, open-minded, and absolutely impartial adjustment of all colonial claims,” regard being had to the interests of the populations concerned. (6), (7), (8), and (11). The evacuation and “restoration” of all invaded territory, especially of Belgium. To this must be added the rider of the Allies, claiming compensation for all damage done to civilians and their property by land, by sea, and from the air (quoted in full above). (8). The righting of “the wrong done to France by Prussia in 1871 in the matter of Alsace-Lorraine.” (13). An independent Poland, including “the territories inhabited by indisputably Polish populations” and “assured a free and secure access to the sea.” (14). The League of Nations.

*Before the Congress, February 11.*—“There shall be no annexations, *no contributions, no punitive damages.* . . . Self-determination is not a

relates to the Freedom of the Seas, is omitted because the Allies did not accept it. Any italics are mine.

mere phrase. It is an imperative principle of action which statesmen will henceforth ignore at their peril. . . . Every territorial settlement involved in this war must be made in the interest and for the benefit of the populations concerned, and not as a part of any mere adjustment or compromise of claims amongst rival States."

*New York, September 27.*—(1) "The impartial justice meted out must involve no discrimination between those to whom we wish to be just and those to whom we do not wish to be just." (2) "No special or separate interest of any single nation or any group of nations can be made the basis of any part of the settlement which is not consistent with the common interest of all." (3) "There can be no leagues or alliances or special covenants and understandings within the general and common family of the League of Nations." (4) "There can be no special selfish economic combinations within the League and no employment of any form of economic boycott or exclusion, except as the power of economic penalty by exclusion from the markets of the world may be vested in the League of Nations itself as a means of discipline and control." (5) "All international agreements and treaties of every kind must be made known in their entirety to the rest of the world."

This wise and magnanimous program for the



world had passed on November 5, 1918, beyond the region of idealism and aspiration, and had become part of a solemn contract to which all the Great Powers of the world had put their signature. But it was lost, nevertheless, in the morass of Paris;—the spirit of it altogether, the letter in parts ignored and in other parts distorted.

The German observations on the draft Treaty of Peace were largely a comparison between the terms of this understanding, on the basis of which the German nation had agreed to lay down its arms, and the actual provisions of the document offered them for signature thereafter. The German commentators had little difficulty in showing that the draft Treaty constituted a breach of engagements and of international morality comparable with their own offense in the invasion of Belgium. Nevertheless, the German reply was not in all its parts a document fully worthy of the occasion, because in spite of the justice and importance of much of its contents, a truly broad treatment and high dignity of outlook were a little wanting, and the general effect lacks the simple treatment, with the dispassionate objectivity of despair which the deep passions of the occasion might have evoked. The Allied Governments gave it, in any case, no serious consideration, and I doubt if anything which the German delegation

could have said at that stage of the proceedings would have much influenced the result.

The commonest virtues of the individual are often lacking in the spokesmen of nations; a statesman representing not himself but his country may prove, without incurring excessive blame—as history often records—vindictive, perfidious, and egotistic. These qualities are familiar in treaties imposed by victors. But the German delegation did not succeed in exposing in burning and prophetic words the quality which chiefly distinguishes this transaction from all its historical predecessors—its insincerity.

This theme, however, must be for another pen than mine. I am mainly concerned in what follows, not with the justice of the Treaty,—neither with the demand for penal justice against the enemy, nor with the obligation of contractual justice on the victor,—but with its wisdom and with its consequences.

I propose, therefore, in this chapter to set forth baldly the principal economic provisions of the Treaty, reserving, however, for the next my comments on the Reparation Chapter and on Germany's capacity to meet the payments there demanded from her.

The German economic system as it existed before the war depended on three main factors:  
I. Overseas commerce as represented by her mer-

cantile marine, her colonies, her foreign investments, her exports, and the overseas connections of her merchants; II. The exploitation of her coal and iron and the industries built upon them; III. Her transport and tariff system. Of these the first, while not the least important, was certainly the most vulnerable. The Treaty aims at the systematic destruction of all three, but principally of the first two.

## I

(1) Germany has ceded to the Allies *all* the vessels of her mercantile marine exceeding 1600 tons gross, half the vessels between 1000 tons and 1600 tons, and one quarter of her trawlers and other fishing boats.<sup>1</sup> The cession is comprehensive, including not only vessels flying the German flag, but also all vessels owned by Germans but flying other flags, and all vessels under construction as well as those afloat.<sup>2</sup> Further, Germany undertakes, if required, to build for the Allies such types of ships as they may specify up to 200,000 tons<sup>3</sup> annually for five years, the value of these ships being credited to Germany against what is due from her for Reparation.<sup>4</sup>

<sup>1</sup> Part VIII. Annex III. (1).

<sup>2</sup> Part VIII. Annex III. (3).

<sup>3</sup> In the years before the war the average shipbuilding output of Germany was about 350,000 tons annually, exclusive of warships.

<sup>4</sup> Part VIII. Annex III. (5).

Thus the German mercantile marine is swept from the seas and cannot be restored for many years to come on a scale adequate to meet the requirements of her own commerce. For the present, no lines will run from Hamburg, except such as foreign nations may find it worth while to establish out of their surplus tonnage. Germany will have to pay to foreigners for the carriage of her trade such charges as they may be able to exact, and will receive only such conveniences as it may suit them to give her. The prosperity of German ports and commerce can only revive, it would seem, in proportion as she succeeds in bringing under her effective influence the merchant marines of Scandinavia and of Holland.

(2) Germany has ceded to the Allies "all her rights and titles over her oversea possessions."<sup>1</sup> This cession not only applies to sovereignty but extends on unfavorable terms to Government property, all of which, including railways, must be surrendered without payment, while, on the other hand, the German Government remains liable for any debt which may have been incurred for the purchase or construction of this property, or for the development of the colonies generally.<sup>2</sup>

In distinction from the practice ruling in the case of most similar cessions in recent history, the

<sup>1</sup> Art. 119.

<sup>2</sup> Arts. 120 and 257.

property and persons of private German nationals, as distinct from their Government, are also injuriously affected. The Allied Government exercising authority in any former German colony "may make such provisions as it thinks fit with reference to the repatriation from them of German nationals and to the conditions upon which German subjects of European origin shall, or shall not, be allowed to reside, hold property, trade or exercise a profession in them."<sup>1</sup> All contracts and agreements in favor of German nationals for the construction or exploitation of public works lapse to the Allied Governments as part of the payment due for Reparation.

But these terms are unimportant compared with the more comprehensive provision by which "the Allied and Associated Powers reserve the right to retain and liquidate *all* property, rights, and interests belonging at the date of the coming into force of the present Treaty to German nationals, or companies controlled by them," within the former German colonies.<sup>2</sup> This wholesale expropriation of private property is to take place without the Allies affording any compensation to the individuals expropriated, and the proceeds will be employed, first, to meet private debts due

<sup>1</sup> Art. 122.

<sup>2</sup> Arts. 121 and 297 (b). The exercise or non-exercise of this option of expropriation appears to lie, not with the Reparation Commission, but with the particular Power in whose territory the property has become situated by cession or mandation.

to Allied nationals from any German nationals, and second, to meet claims due from Austrian, Hungarian, Bulgarian, or Turkish nationals. Any balance may either be returned by the liquidating Power direct to Germany, or retained by them. If retained, the proceeds must be transferred to the Reparation Commission for Germany's credit in the Reparation account.<sup>1</sup>

In short, not only are German sovereignty and German influence extirpated from the whole of her former oversea possessions, but the persons and property of her nationals resident or owning property in those parts are deprived of legal status and legal security.

(3) The provisions just outlined in regard to the private property of Germans in the ex-German colonies apply equally to private German property in Alsace-Lorraine, except in so far as the French Government may choose to grant exceptions.<sup>2</sup> This is of much greater practical importance than the similar expropriation overseas because of the far higher value of the property involved and the closer interconnection, resulting from the great development of the mineral wealth of these provinces since 1871, of German economic interests there with those in Germany itself. Alsace-Lorraine has been part of the Ger-

<sup>1</sup> Art. 297 (h) and para. 4 of Annex to Part X. Section IV.

<sup>2</sup> Arts. 53 and 74.

man Empire for nearly fifty years—a considerable majority of its population is German-speaking—and it has been the scene of some of Germany's most important economic enterprises. Nevertheless, the property of those Germans who reside there, or who have invested in its industries, is now entirely at the disposal of the French Government without compensation, except in so far as the German Government itself may choose to afford it. The French Government is entitled to appropriate without compensation the personal property of private German citizens and German companies resident or situated within Alsace-Lorraine, the proceeds being credited in part satisfaction of various French claims. The severity of this provision is only mitigated to the extent that the French Government may expressly permit German nationals to continue to reside, in which case the above provision is not applicable. Government, State, and Municipal property, on the other hand, is to be ceded to France without any credit being given for it. This includes the railway system of the two provinces, together with its rolling-stock.<sup>1</sup> But while the property is taken over, li-

<sup>1</sup> In 1871 Germany granted France credit for the railways of Alsace-Lorraine but not for State property. At that time, however, the railways were private property. As they afterwards became the property of the German Government, the French Government have held, in spite of the large additional capital which Germany has sunk in them, that their treatment must follow the precedent of State property generally.

abilities contracted in respect of it in the form of public debts of any kind remain the liability of Germany.<sup>1</sup> The provinces also return to French sovereignty free and quit of their share of German war or pre-war dead-weight debt; nor does Germany receive a credit on this account in respect of Reparation.

(4) The expropriation of German private property is not limited, however, to the ex-German colonies and Alsace-Lorraine. The treatment of such property forms, indeed, a very significant and material section of the Treaty, which has not received as much attention as it merits, although it was the subject of exceptionally violent objection on the part of the German delegates at Versailles. So far as I know, there is no precedent in any peace treaty of recent history for the treatment of private property set forth below, and the German representatives urged that the precedent now established strikes a dangerous and immoral blow at the security of private property everywhere. This is an exaggeration, and the sharp distinction, approved by custom and convention during the past two centuries, between the property and rights of a State and the property and rights of its nationals is an artificial one, which is being rapidly put out of date by many other influences than the Peace Treaty, and is inap-

<sup>1</sup> Arts. 55 and 255. This follows the precedent of 1871.



appropriate to modern socialistic conceptions of the relations between the State and its citizens. It is true, however, that the Treaty strikes a destructive blow at a conception which lies at the root of much of so-called international law, as this has been expounded hitherto.

The principal provisions relating to the expropriation of German private property situated outside the frontiers of Germany, as these are now determined, are overlapping in their incidence, and the more drastic would seem in some cases to render the others unnecessary. Generally speaking, however, the more drastic and extensive provisions are not so precisely framed as those of more particular and limited application. They are as follows:—

(a) The Allies “reserve the right to retain and liquidate all property, rights and interests belonging at the date of the coming into force of the present Treaty to German nationals, or companies controlled by them, within their territories, colonies, possessions and protectorates, including territories ceded to them by the present Treaty.”<sup>1</sup>

This is the extended version of the provision which has been discussed already in the case of the colonies and of Alsace-Lorraine. The value of the property so expropriated will be applied, in the first instance, to the satisfaction of private

<sup>1</sup> Art. 297 (b).

debts due from Germany to the nationals of the Allied Government within whose jurisdiction the liquidation takes place, and, second, to the satisfaction of claims arising out of the acts of Germany's former allies. Any balance, if the liquidating Government elects to retain it, must be credited in the Reparation account.<sup>1</sup> It is, however, a point of considerable importance that the liquidating Government is not compelled to transfer the balance to the Reparation Commission, but can, if it so decides, return the proceeds direct to Germany. For this will enable the United States, if they so wish, to utilize the very large balances, in the hands of their enemy-property custodian, to pay for the provisioning of Germany, without regard to the views of the Reparation Commission.

These provisions had their origin in the scheme for the mutual settlement of enemy debts by means of a Clearing House. Under this proposal it was hoped to avoid much trouble and litigation by making each of the Governments lately at war responsible for the collection of private *debts* due from its nationals to the nationals of any of the other Governments (the normal process of collection having been suspended by reason of the war), and for the distribution of the funds so collected to those of its nationals who had *claims* against

<sup>1</sup> Part X. Sections III. and IV. and Art. 243.

the nationals of the other Governments, any final balance either way being settled in cash. Such a scheme could have been completely bilateral and reciprocal. And so in part it is, the scheme being mainly reciprocal as regards the collection of commercial debts. But the completeness of their victory permitted the Allied Governments to introduce in their own favor many divergencies from reciprocity, of which the following are the chief: Whereas the property of Allied nationals within German jurisdiction reverts under the Treaty to Allied ownership on the conclusion of Peace, the property of Germans within Allied jurisdiction is to be retained and liquidated as described above, with the result that the whole of German property over a large part of the world can be expropriated, and the large properties now within the custody of Public Trustees and similar officials in the Allied countries may be retained permanently. In the second place, such German assets are chargeable, not only with the liabilities of Germans, but also, if they run to it, with "payment of the amounts due in respect of claims by the nationals of such Allied or Associated Power with regard to their property, rights, and interests in the territory of other Enemy Powers," as, for example, Turkey, Bulgaria, and Austria.<sup>1</sup>

<sup>1</sup>The interpretation of the words between inverted commas is a little dubious. The phrase is so wide as to seem to include

This is a remarkable provision, which is naturally non-reciprocal. In the third place, any final balance due to Germany on private account need not be paid over, but can be held against the various liabilities of the German Government.<sup>1</sup> The effective operation of these Articles is guaranteed by the delivery of deeds, titles, and information.<sup>2</sup> In the fourth place, pre-war contracts between Allied and German nationals may be canceled or revived at the option of the former, so that all such contracts which are in Germany's favor will be canceled, while, on the other hand, she will be compelled to fulfil those which are to her disadvantage.

(b) So far we have been concerned with German property within Allied jurisdiction. The next provision is aimed at the elimination of German interests in the territory of her neighbors

private debts. But in the final draft of the Treaty private debts are not explicitly referred to.

<sup>1</sup> This provision is mitigated in the case of German property in Poland and the other new States, the proceeds of liquidation in these areas being payable direct to the owner (Art. 92).

<sup>2</sup> Part X. Section IV. Annex, para. 10: "Germany will, within six months from the coming into force of the present Treaty, deliver to each Allied or Associated Power all securities, certificates, deeds, or other documents of title held by its nationals and relating to property, rights, or interests situated in the territory of that Allied or Associated Power. . . . Germany will at any time on demand of any Allied or Associated Power furnish such information as may be required with regard to the property, rights, and interests of German nationals within the territory of such Allied or Associated Power, or with regard to any transactions concerning such property, rights, or interests effected since July 1, 1914 "

and former allies, and of certain other countries. Under Article 260 of the Financial Clauses it is provided that the Reparation Commission may, within one year of the coming into force of the Treaty, demand that the German Government expropriate its nationals and deliver to the Reparation Commission "any rights and interests of German nationals in any public utility undertaking or in any concession<sup>1</sup> operating in Russia, China, Turkey, Austria, Hungary, and Bulgaria, or in the possessions or dependencies of these States, or in any territory formerly belonging to Germany or her allies, to be ceded by Germany or her allies to any Power or to be administered by a Mandatory under the present Treaty." This is a comprehensive description, overlapping in part the provisions dealt with under (a) above, but including, it should be noted, the new States and territories carved out of the former Russian, Austro-Hungarian, and Turkish Empires. Thus Germany's influence is eliminated and her capital confiscated in all those neighboring countries to which she might naturally look for her future livelihood, and for an outlet for her energy, enterprise, and technical skill.

The execution of this program in detail will throw on the Reparation Commission a peculiar

<sup>1</sup> "Any public utility undertaking or concession" is a vague phrase, the precise interpretation of which is not provided for.

task, as it will become possessor of a great number of rights and interests over a vast territory owing dubious obedience, disordered by war, disruption, and Bolshevism. The division of the spoils between the victors will also provide employment for a powerful office, whose doorsteps the greedy adventurers and jealous concession-hunters of twenty or thirty nations will crowd and defile.

Lest the Reparation Commission fail by ignorance to exercise its rights to the full, it is further provided that the German Government shall communicate to it within six months of the Treaty's coming into force a list of all the rights and interests in question, "whether already granted, contingent or not yet exercised," and any which are not so communicated within this period will automatically lapse in favor of the Allied Governments.<sup>1</sup> How far an edict of this character can be made binding on a German national, whose person and property lie outside the jurisdiction of his own Government, is an unsettled question; but all the countries specified in the above list are open to pressure by the Allied authorities, whether by the imposition of an appropriate Treaty clause or otherwise.

(c) There remains a third provision more sweeping than either of the above, neither of

<sup>1</sup> Art. 260.

which affects German interests in *neutral* countries. The Reparation Commission is empowered up to May 1, 1921, to demand payment up to \$5,000,000,000 *in such manner as they may fix, "whether in gold, commodities, ships, securities or otherwise."*<sup>1</sup> This provision has the effect of intrusting to the Reparation Commission for the period in question dictatorial powers over all German property of every description whatever. They can, under this Article, point to any specific business, enterprise, or property, whether within or outside Germany, and demand its surrender; and their authority would appear to extend not only to property existing at the date of the Peace, but also to any which may be created or acquired at any time in the course of the next eighteen months. For example, they could pick out—as presumably they will as soon as they are established—the fine and powerful German enterprise in South America known as the *Deutsche Ueberseeische Elektrizitätsgesellschaft* (the D.U.E.G.), and dispose of it to Allied interests. The clause is unequivocal and all-embracing. It is worth while to note in passing that it introduces a quite novel principle in the collection of indemnities. Hitherto, a sum has been fixed, and the nation mulcted has been left free to devise and select for itself the means of payment. But in this case

<sup>1</sup> Art. 235.

the payees can (for a certain period) not only demand a certain sum but specify the particular kind of property in which payment is to be effected. Thus the powers of the Reparation Commission, with which I deal more particularly in the next chapter, can be employed to destroy Germany's commercial and economic organization as well as to exact payment.

The cumulative effect of (a), (b), and (c) (as well as of certain other minor provisions on which I have not thought it necessary to enlarge) is to deprive Germany (or rather to empower the Allies so to deprive her at their will—it is not yet accomplished) of everything she possesses outside her own frontiers as laid down in the Treaty. Not only are her oversea investments taken and her connections destroyed, but the same process of extirpation is applied in the territories of her former allies and of her immediate neighbors by land.

(5) Lest by some oversight the above provisions should overlook any possible contingencies, certain other Articles appear in the Treaty, which probably do not add very much in practical effect to those already described, but which deserve brief mention as showing the spirit of completeness in which the victorious Powers entered upon the economic subjection of their defeated enemy.

First of all there is a general clause of barrer



and renunciation: "In territory outside her European frontiers as fixed by the present Treaty, Germany renounces all rights, titles and privileges whatever in or over territory which belonged to her or to her allies, and all rights, titles and privileges whatever their origin which she held as against the Allied and Associated Powers . . ."<sup>1</sup>

There follow certain more particular provisions. Germany renounces all rights and privileges she may have acquired in China.<sup>2</sup> There are similar provisions for Siam,<sup>3</sup> for Liberia,<sup>4</sup> for Morocco,<sup>5</sup> and for Egypt.<sup>6</sup> In the case of Egypt not only are special privileges renounced, but by Article 150 ordinary liberties are withdrawn, the Egyptian Government being accorded "complete liberty of action in regulating the status of German nationals and the conditions under which they may establish themselves in Egypt."

By Article 258 Germany renounces her right to any participation in any financial or economic or-

<sup>1</sup> Art. 118.

<sup>2</sup> Arts. 129 and 132.

<sup>3</sup> Arts. 135-137.

<sup>4</sup> Arts. 135-140.

<sup>5</sup> Art. 141: "Germany renounces all rights, titles and privileges conferred on her by the General Act of Algeciras of April 7, 1906, and by the Franco-German Agreements, of Feb. 9, 1909, and Nov. 4, 1911. . . ."

<sup>6</sup> Art. 148: "All treaties, agreements, arrangements and contracts concluded by Germany with Egypt are regarded as abrogated from Aug. 4, 1914." Art. 153: "All property and possessions in Egypt of the German Empire and the German States pass to the Egyptian Government without payment."

ganizations of an international character "operating in any of the Allied or Associated States, or in Austria, Hungary, Bulgaria or Turkey, or in the dependencies of these States, or in the former Russian Empire."

Generally speaking, only those pre-war treaties and conventions are revived which it suits the Allied Governments to revive, and those in Germany's favor may be allowed to lapse.<sup>1</sup>

It is evident, however, that none of these provisions are of any real importance, as compared with those described previously. They represent the logical completion of Germany's outlawry and economic subjection to the convenience of the Allies; but they do not add substantially to her effective disabilities.

## II

The provisions relating to coal and iron are more important in respect of their ultimate consequences on Germany's internal industrial economy than for the money value immediately involved. The German Empire has been built more truly on coal and iron than on blood and iron. The skilled exploitation of the great coalfields of the Ruhr, Upper Silesia, and the Saar, alone made possible the development of the steel, chemical,

<sup>1</sup> Art. 289.

and electrical industries which established her as the first industrial nation of continental Europe. One-third of Germany's population lives in towns of more than 20,000 inhabitants, an industrial concentration which is only possible on a foundation of coal and iron. In striking, therefore, at her coal supply, the French politicians were not mistaking their target. It is only the extreme immoderation, and indeed technical impossibility, of the Treaty's demands which may save the situation in the long-run.

(1) The Treaty strikes at Germany's coal supply in four ways:—

(i.) "As compensation for the destruction of the coal-mines in the north of France, and as part payment towards the total reparation due from Germany for the damage resulting from the war, Germany cedes to France in full and absolute possession, with exclusive rights of exploitation, unencumbered, and free from all debts and charges of any kind, the coal-mines situated in the Saar Basin."<sup>1</sup> While the administration of this district is vested for fifteen years in the League of Nations, it is to be observed that the mines are ceded to France absolutely. Fifteen years hence the population of the district will be called upon to indicate by plebiscite their desires as to the future sovereignty of the territory; and, in the

<sup>1</sup> Art. 45.

event of their electing for union with Germany, Germany is to be entitled to repurchase the mines at a price payable in gold.<sup>1</sup>

The judgment of the world has already recognized the transaction of the Saar as an act of spoliation and insincerity. So far as compensation for the destruction of French coal-mines is concerned, this is provided for, as we shall see in a moment, elsewhere in the Treaty. "There is no industrial region in Germany," the German representatives have said without contradiction, "the population of which is so permanent, so homogeneous, and so little complex as that of the Saar district. Among more than 650,000 inhabitants, there were in 1918 less than 100 French. The Saar district has been German for more than 1,000 years. Temporary occupation as a result of warlike operations on the part of the French always terminated in a short time in the restoration of the country upon the conclusion of peace. During a period of 1048 years France has possessed the country for not quite 68 years in all. When, on the occasion of the first Treaty of Paris in 1814, a small portion of the territory now coveted was retained for France, the population raised the most energetic opposition and demanded 'reunion with their German fatherland,' to which they were 'related by language, customs,

<sup>1</sup> Part IV. Section IV. Annex, Chap. III.

and religion.' After an occupation of one year and a quarter, this desire was taken into account in the second Treaty of Paris in 1815. Since then the country has remained uninterruptedly attached to Germany, and owes its economic development to that connection."

The French wanted the coal for the purpose of working the ironfields of Lorraine, and in the spirit of Bismarck they have taken it. Not precedent, but the verbal professions of the Allies, have rendered it indefensible.<sup>1</sup>

(ii.) Upper Silesia, a district without large towns, in which, however, lies one of the major coalfields of Germany with a production of about 23 per cent of the total German output of hard coal, is, subject to a plebiscite,<sup>2</sup> to be ceded to

<sup>1</sup> "We take over the ownership of the Sarre mines, and in order not to be inconvenienced in the exploitation of these coal deposits, we constitute a distinct little estate for the 600,000 Germans who inhabit this coal basin, and in fifteen years we shall endeavor by a plebiscite to bring them to declare that they want to be French. We know what that means. During fifteen years we are going to work on them, to attack them from every point, till we obtain from them a declaration of love. It is evidently a less brutal proceeding than the *coup de force* which detached from us our Alsations and Lorrainers. But if less brutal, it is more hypocritical. We know quite well between ourselves that it is an attempt to annex these 600,000 Germans. One can understand very well the reasons of an economic nature which have led Clemenceau to wish to give us these Sarre coal deposits, but in order to acquire them must we give ourselves the appearance of wanting to juggle with 600,000 Germans in order to make Frenchmen of them in fifteen years?" (M. Hervé in *La Victoire*, May 31, 1919).

<sup>2</sup> This plebiscite is the most important of the concessions accorded to Germany in the Allies' Final Note, and one for which Mr. Lloyd George, who never approved the Allies' policy on the

Poland. Upper Silesia was never part of historic Poland; but its population is mixed Polish, German, and Czecho-Slovakian, the precise proportions of which are disputed.<sup>1</sup> Economically it is intensely German; the industries of Eastern Germany depend upon it for their coal; and its loss would be a destructive blow at the economic structure of the German State.<sup>2</sup>

Eastern frontiers of Germany, can claim the chief credit. The vote cannot take place before the spring of 1920, and may be postponed until 1921. In the meantime the province will be governed by an Allied Commission. The vote will be taken by communes, and the final frontiers will be determined by the Allies, who shall have regard, partly to the results of the vote in each commune, and partly "to the geographical and economic conditions of the locality." It would require great local knowledge to predict the result. By voting Polish, a locality can escape liability for the indemnity, and for the crushing taxation consequent on voting German, a factor not to be neglected. On the other hand, the bankruptcy and incompetence of the new Polish State might deter those who were disposed to vote on economic rather than on racial grounds. It has also been stated that the conditions of life in such matters as sanitation and social legislation are incomparably better in Upper Silesia than in the adjacent districts of Poland, where similar legislation is in its infancy. The argument in the text assumes that Upper Silesia will cease to be German. But much may happen in a year, and the assumption is not certain. To the extent that it proves erroneous the conclusions must be modified.

<sup>1</sup> German authorities claim, not without contradiction, that to judge from the votes cast at elections, one-third of the population would elect in the Polish interest, and two-thirds in the German.

<sup>2</sup> It must not be overlooked, however, that, amongst the other concessions relating to Silesia accorded in the Allies' Final Note, there has been included Article 90, by which "Poland undertakes to permit for a period of fifteen years the exportation to Germany of the products of the mines in any part of Upper Silesia transferred to Poland in accordance with the present Treaty. Such products shall be free from all export duties or other charges or restrictions on exportation. Poland agrees to take such steps as may be necessary to secure that any such products shall be available for sale to purchasers in Germany

With the loss of the fields of Upper Silesia and the Saar, the coal supplies of Germany are diminished by not far short of one-third.

(iii.) Out of the coal that remains to her, Germany is obliged to make good year by year the estimated loss which France has incurred by the destruction and damage of war in the coalfields of her northern Provinces. In para. 2 of Annex V. to the Reparation Chapter, "Germany undertakes to deliver to France annually, for a period not exceeding ten years, an amount of coal equal to the difference between the annual production before the war of the coal-mines of the Nord and Pas de Calais, destroyed as a result of the war,

on terms as favorable as are applicable to like products sold under similar conditions to purchasers in Poland or in any other country." This does not apparently amount to a right of pre-emption, and it is not easy to estimate its effective practical consequences. It is evident, however, that in so far as the mines are maintained at their former efficiency, and in so far as Germany is in a position to purchase substantially her former supplies from that source, the loss is limited to the effect on her balance of trade, and is without the more serious repercussions on her economic life which are contemplated in the text. Here is an opportunity for the Allies to render more tolerable the actual operation of the settlement. The Germans, it should be added, have pointed out that the same economic argument which adds the Saar fields to France, allots Upper Silesia to Germany. For whereas the Silesian mines are essential to the economic life of Germany, Poland does not need them. Of Poland's pre-war annual demand of 10,500,000 tons, 6,800,000 tons were supplied by the indisputably Polish districts adjacent to Upper Silesia, 1,500,000 tons from Upper Silesia (out of a total Upper Silesian output of 43,500,000 tons), and the balance from what is now Czecho-Slovakia. Even without any supply from Upper Silesia and Czecho-Slovakia, Poland could probably meet her requirements by the fuller exploitation of her own coalfields which are not yet scientifically developed, or from the deposits of Western Galicia which are now to be annexed to her.

and the production of the mines of the same area during the year in question: such delivery not to exceed 20,000,000 tons in any one year of the first five years, and 8,000,000 tons in any one year of the succeeding five years."

This is a reasonable provision if it stood by itself, and one which Germany should be able to fulfil if she were left her other resources to do it with.

(iv.) The final provision relating to coal is part of the general scheme of the Reparation Chapter by which the sums due for Reparation are to be partly paid in kind instead of in cash. As a part of the payment due for Reparation, Germany is to make the following deliveries of coal or its equivalent in coke (the deliveries to France being wholly additional to the amounts available by the cession of the Saar or in compensation for destruction in Northern France):—

(i.) To France 7,000,000 tons annually for ten years;<sup>1</sup>

(ii.) To Belgium 8,000,000 tons annually for ten years;

(iii.) To Italy an annual quantity, rising by annual increments from 4,500,000 tons in 1919-1920 to 8,500,000 tons in each of the six years, 1923-1924 to 1928-1929;

<sup>1</sup> France is also to receive annually for three years 35,000 tons of benzol, 50,000 tons of coal tar, and 30,000 tons of sulphate of ammonia.



(iv.) To Luxemburg, if required, a quantity of coal equal to the pre-war annual consumption of German coal in Luxemburg.

This amounts in all to an annual average of about 25,000,000 tons.

These figures have to be examined in relation to Germany's probable output. The maximum pre-war figure was reached in 1913 with a total of 191,500,000 tons. Of this, 19,000,000 tons were consumed at the mines, and on balance (*i.e.* exports less imports) 33,500,000 tons were exported, leaving 139,000,000 tons for domestic consumption. It is estimated that this total was employed as follows:—

Railways .....	18,000,000 tons.
Gas, water, and electricity...	12,500,000 “
Bunkers .....	6,500,000 “
House-fuel, small industry and agriculture .....	24,000,000 “
Industry .....	78,000,000 “
	<hr/>
	139,000,000 “

The diminution of production due to loss of territory is:—

Alsace-Lorraine .....	3,800,000 tons.
Saar Basin .....	13,200,000 “
Upper Silesia .....	43,800,000 “
	<hr/>
	60,800,000 “

There would remain, therefore, on the basis of the 1913 output, 130,700,000 tons, or, deducting consumption at the mines themselves, (say) 118,000,000 tons. For some years there must be sent out of this supply upwards of 20,000,000 tons to France as compensation for damage done to French mines, and 25,000,000 tons to France, Belgium, Italy, and Luxemburg;<sup>1</sup> as the former figure is a maximum, and the latter figure is to be slightly less in the earliest years, we may take the total export to Allied countries which Germany has undertaken to provide as 40,000,000 tons, leaving, on the above basis, 78,000,000 tons for her own use as against a pre-war consumption of 139,000,000 tons.

This comparison, however, requires substantial modification to make it accurate. On the one hand, it is certain that the figures of pre-war output cannot be relied on as a basis of present output. During 1918 the production was

<sup>1</sup>The Reparation Commission is authorized under the Treaty (Part VIII. Annex V. para. 10) "to postpone or to cancel deliveries" if they consider "that the full exercise of the foregoing options would interfere unduly with the industrial requirements of Germany." In the event of such postponements or cancellations "the coal to replace coal from destroyed mines shall receive priority over other deliveries." This concluding clause is of the greatest importance, if, as will be seen, it is physically impossible for Germany to furnish the full 45,000,000; for it means that France will receive 20,000,000 tons before Italy receives anything. The Reparation Commission has no discretion to modify this. The Italian Press has not failed to notice the significance of the provision, and alleges that this clause was inserted during the absence of the Italian representatives from Paris (*Corriere della Sera*, July 19, 1919).

161,500,000 tons as compared with 191,500,000 tons in 1913; and during the first half of 1919 it was less than 50,000,000 tons, exclusive of Alsace-Lorraine and the Saar but including Upper Silesia, corresponding to an annual production of about 100,000,000 tons.<sup>1</sup> The causes of so low an output were in part temporary and exceptional, but the German authorities agree, and have not been confuted, that some of them are bound to persist for some time to come. In part they are the same as elsewhere; the daily shift has been shortened from 8½ to 7 hours, and it is improbable that the powers of the Central Government will be adequate to restore them to their former figure. But in addition, the mining plant is in bad condition (due to the lack of certain essential materials during the blockade), the physical efficiency of the men is greatly impaired by malnutrition (which cannot be cured if a tithe of the reparation demands are to be satisfied,—the standard of life will have rather to be lowered), and the casualties of the war have diminished the numbers of efficient miners. The analogy of English conditions is sufficient by itself to tell us that a pre-war level of output cannot be expected in Germany. German authorities put the

<sup>1</sup> It follows that the current rate of production in Germany has sunk to about 60 per cent of that of 1913. The effect on reserves has naturally been disastrous, and the prospects for the coming winter are dangerous.

loss of output at somewhat above 30 per cent, divided about equally between the shortening of the shift and the other economic influences. This figure appears on general grounds to be plausible, but I have not the knowledge to endorse or to criticize it.

The pre-war figure of 118,000,000 tons net (*i.e.* after allowing for loss of territory and consumption at the mines) is likely to fall, therefore, at least as low as to 100,000,000<sup>1</sup> tons, having regard to the above factors. If 40,000,000 tons of this are to be exported to the Allies, there remain 60,000,000 tons for Germany herself to meet her own domestic consumption. Demand as well as supply will be diminished by loss of territory, but at the most extravagant estimate this could not be put above 29,000,000 tons.<sup>2</sup> Our hypothetical calculations, therefore, leave us with post-war German domestic requirements, on the basis of a pre-war efficiency of railways and industry, of 110,000,000 tons against an output not exceeding 100,000,000 tons, of which 40,000,000 tons are mortgaged to the Allies.

The importance of the subject has led me into a somewhat lengthy statistical analysis. It is evident that too much significance must not be at-

<sup>1</sup> This assumes a loss of output of 15 per cent as compared with the estimate of 30 per cent quoted above.

<sup>2</sup> This supposes a loss of 25 per cent of Germany's industrial undertaking and a diminution of 13 per cent in her other requirements.

tached to the precise figures arrived at, which are hypothetical and dubious.<sup>1</sup> But the general character of the facts presents itself irresistibly. Allowing for the loss of territory and the loss of efficiency, Germany cannot export coal in the near future (and will even be dependent on her Treaty rights to purchase in Upper Silesia), if she is to continue as an industrial nation. Every million tons she is forced to export must be at the expense of closing down an industry. With results to be considered later this within certain limits is *possible*. But it is evident that Germany cannot and will not furnish the Allies with a contribution of 40,000,000 tons annually. Those Allied Ministers, who have told their peoples that she can, have certainly deceived them for the sake of allaying for the moment the misgivings of the European peoples as to the path along which they are being led.

The presence of these illusory provisions (amongst others) in the clauses of the Treaty of Peace is especially charged with danger for

<sup>1</sup> The reader must be reminded in particular that the above calculations take no account of the German production of lignite, which yielded in 1913 13,000,000 tons of rough lignite in addition to an amount converted into 21,000,000 tons of briquette. This amount of lignite, however, was required in Germany before the war *in addition* to the quantities of coal assumed above. I am not competent to speak on the extent to which the loss of coal can be made good by the extended use of lignite or by economies in its present employment; but some authorities believe that Germany may obtain substantial compensation for her loss of coal by paying more attention to her deposits of lignite.

the future. The more extravagant expectations as to Reparation receipts, by which Finance Ministers have deceived their publics, will be heard of no more when they have served their immediate purpose of postponing the hour of taxation and retrenchment. But the coal clauses will not be lost sight of so easily,—for the reason that it will be absolutely vital in the interests of France and Italy that these countries should do everything in their power to exact their bond. As a result of the diminished output due to German destruction in France, of the diminished output of mines in the United Kingdom and elsewhere, and of many secondary causes, such as the breakdown of transport and of organization and the inefficiency of new governments, the coal position of all Europe is nearly desperate;<sup>1</sup> and France and Italy, entering the scramble with certain Treaty rights, will not lightly surrender them.

As is generally the case in real dilemmas, the French and Italian case will possess great force, indeed unanswerable force from a certain point of view. The position will be truly represented

<sup>1</sup> Mr. Hoover, in July, 1919, estimated that the coal output of Europe, excluding Russia and the Balkans, had dropped from 679,500,000 tons to 443,000,000 tons,—as a result in a minor degree of loss of material and labor, but owing chiefly to a relaxation of physical effort after the privations and sufferings of the war, a lack of rolling-stock and transport, and the unsettled political fate of some of the mining districts.

as a question between German industry on the one hand and French and Italian industry on the other. It may be admitted that the surrender of the coal will destroy German industry; but it may be equally true that its non-surrender will jeopardize French and Italian industry. In such a case must not the victors with their Treaty rights prevail, especially when much of the damage has been ultimately due to the wicked acts of those who are now defeated? Yet if these feelings and these rights are allowed to prevail beyond what wisdom would recommend, the reactions on the social and economic life of Central Europe will be far too strong to be confined within their original limits.

But this is not yet the whole problem. If France and Italy are to make good their own deficiencies in coal from the output of Germany, then Northern Europe, Switzerland, and Austria, which previously drew their coal in large part from Germany's exportable surplus, must be starved of their supplies. Before the war 13,600,000 tons of Germany's coal exports went to Austria-Hungary. Inasmuch as nearly all the coal-fields of the former Empire lie outside what is now German-Austria, the industrial ruin of this latter state, if she cannot obtain coal from Germany, will be complete. The case of Germany's neutral neighbors, who were formerly supplied in

part from Great Britain but in large part from Germany, will be hardly less serious. They will go to great lengths in the direction of making their own supplies to Germany of materials which are essential to her, conditional on these being paid for in coal. Indeed they are already doing so.<sup>1</sup> With the breakdown of money economy the practice of international barter is becoming prevalent. Nowadays money in Central and South-Eastern Europe is seldom a true measure of value in exchange, and will not necessarily buy anything, with the consequence that one country, possessing a commodity essential to the needs of another, sells it not for cash but only against a reciprocal engagement on the part of the latter country to furnish in return some article not less necessary to the former. This is an extraordinary complication as compared with the former almost perfect simplicity of international trade. But in the no less extraordinary conditions of to-day's industry it is not without advantages as a means of stimulating production. The butter-shifts of the Ruhr<sup>2</sup> show how far mod-

<sup>1</sup> Numerous commercial agreements during the war were arranged on these lines. But in the month of June, 1919, alone, minor agreements providing for payment in coal were made by Germany with Denmark, Norway, and Switzerland. The amounts involved were not large, but without them Germany could not have obtained butter from Denmark, fats and herrings from Norway, or milk and cattle from Switzerland.

<sup>2</sup> "Some 60,000 Ruhr miners have agreed to work extra shifts—so-called butter-shifts—for the purpose of furnishing coal for



ern Europe has retrograded in the direction of barter, and afford a picturesque illustration of the low economic organization to which the breakdown of currency and free exchange between individuals and nations is quickly leading us. But they may produce the coal where other devices would fail.<sup>1</sup>

Yet if Germany can find coal for the neighboring neutrals, France and Italy may loudly claim that in this case she can and must keep her treaty obligations. In this there will be a great show of justice, and it will be difficult to weigh against such claims the possible facts that, while German miners will work for butter, there is no available means of compelling them to get coal, the sale of which will bring in nothing, and that if Germany has no coal to send to her neighbors she may fail to secure imports essential to her economic existence.

If the distribution of the European coal supplies is to be a scramble in which France is satisfied first, Italy next, and every one else takes their chance, the industrial future of Europe is black and the prospects of revolution very good. It is a case where particular interests and par-

export to Denmark, whence butter will be exported in return. The butter will benefit the miners in the first place, as they have worked specially to obtain it" (*Kölnische Zeitung*, June 11, 1919).

<sup>1</sup> What of the prospects of whisky-shifts in England?

ticular claims, however well founded in sentiment or in justice, must yield to sovereign expediency. If there is any approximate truth in Mr. Hoover's calculation that the coal output of Europe has fallen by one-third, a situation confronts us where distribution must be effected with even-handed impartiality in accordance with need, and no incentive can be neglected towards increased production and economical methods of transport. The establishment by the Supreme Council of the Allies in August, 1919, of a European Coal Commission, consisting of delegates from Great Britain, France, Italy, Belgium, Poland, and Czecho-Slovakia was a wise measure which, properly employed and extended, may prove of great assistance. But I reserve constructive proposals for Chapter VII. Here I am only concerned with tracing the consequences, *per impossibile*, of carrying out the Treaty *au pied de lettre*.<sup>1</sup>

(2) The provisions relating to iron-ore require less detailed attention, though their effects are

<sup>1</sup> As early as September, 1919, the Coal Commission had to face the physical impracticability of enforcing the demands of the Treaty, and agreed to modify them as follows:—"Germany shall in the next six months make deliveries corresponding to an annual delivery of 20 million tons as compared with 43 millions as provided in the Peace Treaty. If Germany's total production exceeds the present level of about 108 millions a year, 60 per cent of the extra production, up to 128 millions, shall be delivered to the Entente and 50 per cent of any extra beyond that, until the figure provided in the Peace Treaty is reached. If the total production falls below 108 millions the Entente will examine the situation, after hearing Germany, and take account of it."

destructive. They require less attention, because they are in large measure inevitable. Almost exactly 75 per cent of the iron-ore raised in Germany in 1913 came from Alsace-Lorraine.<sup>1</sup> In this the chief importance of the stolen provinces lay.

There is no question but that Germany must lose these ore-fields. The only question is how far she is to be allowed facilities for purchasing their produce. The German Delegation made strong efforts to secure the inclusion of a provision by which coal and coke to be furnished by them to France should be given in exchange for *minette* from Lorraine. But they secured no such stipulation, and the matter remains at France's option.

The motives which will govern France's eventual policy are not entirely concordant. While Lorraine comprised 75 per cent of Germany's iron-ore, only 25 per cent of the blast furnaces lay within Lorraine and the Saar basin together, a large proportion of the ore being carried into Germany proper. Approximately the same proportion of Germany's iron and steel foundries, namely 25 per cent, were situated in Alsace-Lor-

<sup>1</sup> 21,136,265 tons out of a total of 28,607,903 tons. The loss of iron-ore in respect of Upper Silesia is insignificant. The exclusion of the iron and steel of Luxemburg from the German Customs Union is, however, important, especially when this loss is added to that of Alsace-Lorraine. It may be added in passing that Upper Silesia includes 75 per cent of the zinc production of Germany.

raine. For the moment, therefore, the most economical and profitable course would certainly be to export to Germany, as hitherto, a considerable part of the output of the mines.

On the other hand, France, having recovered the deposits of Lorraine, may be expected to aim at replacing as far as possible the industries, which Germany had based on them, by industries situated within her own frontiers. Much time must elapse before the plant and the skilled labor could be developed within France, and even so she could hardly deal with the ore unless she could rely on receiving the coal from Germany. The uncertainty, too, as to the ultimate fate of the Saar will be disturbing to the calculations of capitalists who contemplate the establishment of new industries in France.

In fact, here, as elsewhere, political considerations cut disastrously across economic. In a régime of Free Trade and free economic intercourse it would be of little consequence that iron lay on one side of a political frontier, and labor, coal, and blast furnaces on the other. But as it is, men have devised ways to impoverish themselves and one another; and prefer collective animosities to individual happiness. It seems certain, calculating on the present passions and impulses of European capitalistic society, that the effective iron output of Europe will be dimin-

ished by a new political frontier (which sentiment and historic justice require), because nationalism and private interest are thus allowed to impose a new economic frontier along the same lines. These latter considerations are allowed, in the present governance of Europe, to prevail over the intense need of the Continent for the most sustained and efficient production to repair the destructions of war, and to satisfy the insistence of labor for a larger reward.<sup>1</sup>

The same influences are likely to be seen, though on a lesser scale, in the event of the transference of Upper Silesia to Poland. While Upper Silesia contains but little iron, the presence of coal has led to the establishment of numerous blast furnaces. What is to be the fate of these? If Germany is cut off from her supplies of ore on the west, will she export beyond her frontiers on the east any part of the little which remains to her? The efficiency and output of the industry seem certain to diminish.

Thus the Treaty strikes at organization, and by the destruction of organization impairs yet

<sup>1</sup> In April, 1919, the British Ministry of Munitions despatched an expert Commission to examine the conditions of the iron and steel works in Lorraine and the occupied areas of Germany. The Report states that the iron and steel works in Lorraine, and to a lesser extent in the Saar Valley, are dependent on supplies of coal and coke from Westphalia. It is necessary to mix Westphalian coal with Saar coal to obtain a good furnace coke. The entire dependence of all the Lorraine iron and steel works upon Germany for fuel supplies "places them," says the Report, "in a very unenviable position."

further the reduced wealth of the whole community. The economic frontiers which are to be established between the coal and the iron, upon which modern industrialism is founded, will not only diminish the production of useful commodities, but may possibly occupy an immense quantity of human labor in dragging iron or coal, as the case may be, over many useless miles to satisfy the dictates of a political treaty or because obstructions have been established to the proper localization of industry.

### III

There remain those Treaty provisions which relate to the transport and the tariff systems of Germany. These parts of the Treaty have not nearly the importance and the significance of those discussed hitherto. They are pin-pricks, interferences and vexations, not so much objectionable for their solid consequences, as dishonorable to the Allies in the light of their professions. Let the reader consider what follows in the light of the assurances already quoted, in reliance on which Germany laid down her arms.

(i.) The miscellaneous Economic Clauses commence with a number of provisions which would be in accordance with the spirit of the third of the Fourteen Points,—if they were reciprocal.

Both for imports and exports, and as regards tariffs, regulations, and prohibitions, Germany binds herself for five years to accord most-favored-nation treatment to the Allied and Associated States.<sup>1</sup> But she is not entitled herself to receive such treatment.

For five years Alsace-Lorraine shall be free to export into Germany, without payment of customs duty, up to the average amount sent annually into Germany from 1911 to 1913.<sup>2</sup> But there is no similar provision for German exports into Alsace-Lorraine.

For three years Polish exports to Germany, and for five years Luxemburg's exports to Germany, are to have a similar privilege,<sup>3</sup>—but not German exports to Poland or to Luxemburg. Luxemburg also, which for many years has enjoyed the benefits of inclusion within the German Customs Union, is permanently excluded from it henceforward.<sup>4</sup>

<sup>1</sup> Arts. 264, 265, 266, and 267. These provisions can only be extended beyond five years by the Council of the League of Nations.

<sup>2</sup> Art. 268 (a).

<sup>3</sup> Art. 268 (b) and (c).

<sup>4</sup> The Grand Duchy is also deneutralized and Germany binds herself to "accept in advance all international arrangements which may be concluded by the Allied and Associated Powers relating to the Grand Duchy" (Art. 40). At the end of September, 1919, a plebiscite was held to determine whether Luxemburg should join the French or the Belgian Customs Union, which decided by a substantial majority in favor of the former. The third alternative of the maintenance of the union with Germany was not left open to the electorate.

For six months after the Treaty has come into force Germany may not impose duties on imports from the Allied and Associated States higher than the most favorable duties prevalent before the war; and for a further two years and a half (making three years in all) this prohibition continues to apply to certain commodities, notably to some of those as to which special agreements existed before the war, and also to wine, to vegetable oils, to artificial silk, and to washed or scoured wool.<sup>1</sup> This is a ridiculous and injurious provision, by which Germany is prevented from taking those steps necessary to conserve her limited resources for the purchase of necessaries and the discharge of Reparation. As a result of the existing distribution of wealth in Germany, and of financial wantonness amongst individuals, the offspring of uncertainty, Germany is threatened with a deluge of luxuries and semi-luxuries from abroad, of which she has been starved for years, which would exhaust or diminish her small supplies of foreign exchange. These provisions strike at the authority of the German Government to ensure economy in such consumption, or to raise taxation during a critical period. What an example of senseless greed overreaching itself, to introduce, after taking from Germany what liquid wealth she has and demanding impossible payments for

<sup>1</sup> Art. 269



the future, a special and particularized injunction that she must allow as readily as in the days of her prosperity the import of champagne and of silk!

One other Article affects the Customs Régime of Germany which, if it was applied, would be serious and extensive in its consequences. The Allies have reserved the right to apply a special customs régime to the occupied area on the left bank of the Rhine, "in the event of such a measure being necessary in their opinion in order to safeguard the economic interests of the population of these territories."<sup>1</sup> This provision was probably introduced as a possibly useful adjunct to the French policy of somehow detaching the left bank provinces from Germany during the years of their occupation. The project of establishing an independent Republic under French clerical auspices, which would act as a buffer state and realize the French ambition of driving Germany proper beyond the Rhine, has not yet been abandoned. Some believe that much may be accomplished by a régime of threats, bribes, and cajolery extended over a period of fifteen years or longer.<sup>2</sup> If this Article is acted upon, and the

<sup>1</sup> Art. 270.

<sup>2</sup> The occupation provisions may be conveniently summarized at this point. German territory situated west of the Rhine, together with the bridge-heads, is subject to occupation for a period of fifteen years (Art. 428). If, however, "the conditions of the present Treaty are faithfully carried out by Germany,"

economic system of the left bank of the Rhine is effectively severed from the rest of Germany, the effect would be far-reaching. But the dreams of designing diplomats do not always prosper, and we must trust the future.

(ii.) The clauses relating to Railways, as originally presented to Germany, were substantially modified in the final Treaty, and are now limited to a provision by which goods coming from Allied territory to Germany, or in transit through Germany, shall receive the most favored treatment as

the Cologne district will be evacuated after five years, and the Coblenz district after ten years (Art. 429). It is, however, further provided that if at the expiration of fifteen years "the guarantees against unprovoked aggression by Germany are not considered sufficient by the Allied and Associated Governments, the evacuation of the occupying troops may be delayed to the extent regarded as necessary for the purpose of obtaining the required guarantees" (Art. 429); and also that "in case either during the occupation or after the expiration of the fifteen years, the Reparation Commission finds that Germany refuses to observe the whole or part of her obligations under the present Treaty with regard to Reparation, the whole or part of the areas specified in Article 429 will be re-occupied immediately by the Allied and Associated Powers" (Art. 430). Since it will be impossible for Germany to fulfil the whole of her Reparation obligations, the effect of the above provisions will be in practice that the Allies will occupy the left bank of the Rhine just so long as they choose. They will also govern it in such manner as they may determine (*e.g.* not only as regards customs, but such matters as the respective authority of the local German representatives and the Allied Governing Commission), since "all matters relating to the occupation and not provided for by the present Treaty shall be regulated by subsequent agreements, which Germany hereby undertakes to observe" (Art. 432). The actual Agreement under which the occupied areas are to be administered for the present has been published as a White Paper [Cd. 222]. The supreme authority is to be in the hands of an Inter-Allied Rhineland Commission, consisting of a Belgian, a French, a British, and an American member. The articles of this Agreement are very fairly and reasonably drawn.

regards rail freight rates, etc., applied to goods of the same kind carried on *any* German lines "under similar conditions of transport, for example, as regards length of route."<sup>1</sup> As a non-reciprocal provision this is an act of interference in internal arrangements which it is difficult to justify, but the practical effect of this,<sup>2</sup> and of an analogous provision relating to passenger traffic,<sup>3</sup> will much depend on the interpretation of the phrase, "similar conditions of transport."<sup>4</sup>

For the time being Germany's transport system will be much more seriously disordered by the provisions relating to the cession of rolling-stock. Under paragraph 7 of the Armistice conditions Germany was called on to surrender 5000 locomotives and 150,000 wagons, "in good working order, with all necessary spare parts and fittings." Under the Treaty Germany is required to confirm this surrender and to recognize the title of the Allies to the material.<sup>5</sup> She is further required, in the case of railway systems in ceded

<sup>1</sup> Art. 365. After five years this Article is subject to revision by the Council of the League of Nations.

<sup>2</sup> The German Government withdrew, as from September 1, 1919, all preferential railway tariffs for the export of iron and steel goods, on the ground that these privileges would have been more than counterbalanced by the corresponding privileges which, under this Article of the Treaty, they would have been forced to give to Allied traders.

<sup>3</sup> Art. 367.

<sup>4</sup> Questions of interpretation and application are to be referred to the League of Nations (Art. 376).

<sup>5</sup> Art. 250.

territory, to hand over these systems complete with their full complement of rolling-stock "in a normal state of upkeep" as shown in the last inventory before November 11, 1918.<sup>1</sup> That is to say, ceded railway systems are not to bear any share in the general depletion and deterioration of the German rolling-stock as a whole.

This is a loss which in course of time can doubtless be made good. But lack of lubricating oils and the prodigious wear and tear of the war, not compensated by normal repairs, had already reduced the German railway system to a low state of efficiency. The further heavy losses under the Treaty will confirm this state of affairs for some time to come, and are a substantial aggravation of the difficulties of the coal problem and of export industry generally.

(iii.) There remain the clauses relating to the river system of Germany. These are largely unnecessary and are so little related to the supposed aims of the Allies that their purport is generally unknown. Yet they constitute an unprecedented interference with a country's domestic arrangements, and are capable of being so operated as to take from Germany all effective control over her own transport system. In their present form they

<sup>1</sup> Art. 371. This provision is even applied "to the lines of former Russian Poland converted by Germany to the German gage, such lines being regarded as detached from the Prussian State System."

are incapable of justification; but some simple changes might transform them into a reasonable instrument.

Most of the principal rivers of Germany have their source or their outlet in non-German territory. The Rhine, rising in Switzerland, is now a frontier river for a part of its course, and finds the sea in Holland; the Danube rises in Germany but flows over its greater length elsewhere; the Elbe rises in the mountains of Bohemia, now called Czecho-Slovakia; the Oder traverses Lower Silesia; and the Niemen now bounds the frontier of East Prussia and has its source in Russia. Of these, the Rhine and the Niemen are frontier rivers, the Elbe is primarily German but in its upper reaches has much importance for Bohemia, the Danube in its German parts appears to have little concern for any country but Germany, and the Oder is an almost purely German river unless the result of the plebiscite is to detach all Upper Silesia.

Rivers which, in the words of the Treaty, "naturally provide more than one State with access to the sea," properly require some measure of international regulation and adequate guarantees against discrimination. This principle has long been recognized in the International Commissions which regulate the Rhine and the Danube. But on such Commissions the States concerned should

be represented more or less in proportion to their interests. The Treaty, however, has made the international character of these rivers a pretext for taking the river system of Germany out of German control.

After certain Articles which provide suitably against discrimination and interference with freedom of transit,<sup>1</sup> the Treaty proceeds to hand over the administration of the Elbe, the Oder, the Danube, and the Rhine to International Commissions.<sup>2</sup> The ultimate powers of these Commissions are to be determined by "a General Convention drawn up by the Allied and Associated Powers, and approved by the League of Nations."<sup>3</sup> In the meantime the Commissions are to draw up their own constitutions and are apparently to enjoy powers of the most extensive description, "particularly in regard to the execution of works of maintenance, control, and improvement on the river system, the financial régime, the fixing and collection of charges, and regulations for navigation."<sup>4</sup>

<sup>1</sup> Arts. 332-337. Exception may be taken, however, to the second paragraph of Art. 332, which allows the vessels of other nations to trade between German towns but forbids German vessels to trade between non-German towns except with special permission; and Art. 333, which prohibits Germany from making use of her river system as a source of revenue, may be injudicious.

<sup>2</sup> The Niemen and the Moselle are to be similarly treated at a later date if required.

<sup>3</sup> Art. 338.

<sup>4</sup> Art. 344. This is with particular reference to the Elbe and the Oder; the Danube and the Rhine are dealt with in relation to the existing Commissions.

So far there is much to be said for the Treaty. Freedom of through transit is a not unimportant part of good international practice and should be established everywhere. The objectionable feature of the Commissions lies in their membership. In each case the voting is so weighted as to place Germany in a clear minority. On the Elbe Commission Germany has four votes out of ten; on the Oder Commission three out of nine; on the Rhine Commission four out of nineteen; on the Danube Commission, which is not yet definitely constituted, she will be apparently in a small minority. On the government of all these rivers France and Great Britain are represented; and on the Elbe for some undiscoverable reason there are also representatives of Italy and Belgium.

Thus the great waterways of Germany are handed over to foreign bodies with the widest powers; and much of the local and domestic business of Hamburg, Magdeburg, Dresden, Stettin, Frankfurt, Breslau, and Ulm will be subject to a foreign jurisdiction. It is almost as though the Powers of Continental Europe were to be placed in a majority on the Thames Conservancy or the Port of London.

Certain minor provisions follow lines which in our survey of the Treaty are now familiar. Under Annex III. of the Reparation Chapter Ger-

many is to cede up to 20 per cent of her inland navigation tonnage. Over and above this she must cede such proportion of her river craft upon the Elbe, the Oder, the Niemen, and the Danube as an American arbitrator may determine, "due regard being had to the legitimate needs of the parties concerned, and particularly to the shipping traffic during the five years preceding the war," the craft so ceded to be selected from those most recently built.<sup>1</sup> The same course is to be followed with German vessels and tugs on the Rhine and with German property in the port of Rotterdam.<sup>2</sup> Where the Rhine flows between France and Germany, France is to have all the rights of utilizing the water for irrigation or for power and Germany is to have none;<sup>3</sup> and all the bridges are to be French property as to their whole length.<sup>4</sup> Finally the administration of the purely German Rhine port of Kehl lying on the eastern bank of the river is to be united to that of Strassburg for seven years and managed by a Frenchman to be nominated by the new Rhine Commission.

Thus the Economic Clauses of the Treaty are comprehensive, and little has been overlooked

<sup>1</sup> Art. 339.

<sup>2</sup> Art. 357.

<sup>3</sup> Art. 358. Germany is, however, to be allowed some payment or credit in respect of power so taken by France.

<sup>4</sup> Art. 66.



which might impoverish Germany now or obstruct her development in future. So situated, Germany is to make payments of money, on a scale and in a manner to be examined in the next chapter.